

BACKGROUND PAPER ON
GOOD PRACTICES AND PRIORITIES
to Combat Sexual Abuse and
Exploitation of Children in Bangladesh



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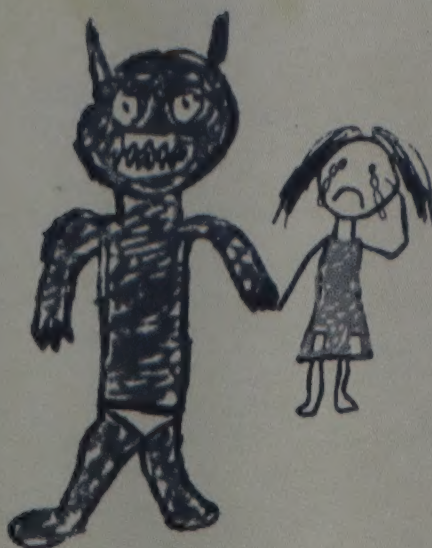
Drawings: Courtesy of girls and boys participating in BITA and ACD-supported projects in Chittagong and Rajshahi, respectively. Drawings also courtesy of girls and boys living in Daulotdia brothels and engaged in street-based prostitution. Drawings by children from Cox's Bazar supported through Education International, Belgium.

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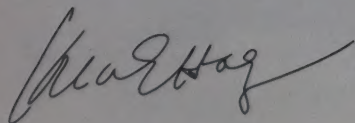
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1. Foreword

During the process of developing the National Plan of Action against Sexual Abuse and Exploitation of Children, including Trafficking, the Ministry of Women and Children Affairs (MOWCA), felt that it was also necessary to analyze and document good practices in relation to combating Sexual Abuse and Exploitation of Children. The examples of 'Good Practice' cited in this report highlight the actions of a range of organizations and interest groups including the Government, Non-governmental organizations and children themselves. I hope that this report will be seen as a meaningful tool for policy makers and practitioners in developing policy and programmes for sexually abused and exploited children.

I would like to thank the author of this report, Ms Karin Heissler, for her excellent work. I would also like to give special thanks to all the members of the CORE group for developing the terms of reference for this study and for having provided guidance and support to the author throughout the drafting of this report. Finally, special thanks go to the concerned Ministries, individuals and organisations, children, parents and key informants in shelter homes, brothel centers, schools and those who agreed to share their experiences, challenges and ideas. We hope that this report will contribute to the promotion of child rights and protection of children from sexual abuse and exploitation, including trafficking.



Mr. K. M. Ehsanul Haq

Secretary

Ministry of Women and Children Affairs

Government of the People's Republic of Bangladesh



2. Acknowledgements

I wish to thank the members of the 'Core Group',¹ including officials and representatives from the Ministry of Women and Children Affairs, Department of Women's Affairs, Ministry of Social Welfare, Department of Social Services, ATSEC Bangladesh, Bangladesh National Women Lawyer's Association (BNWLA), Concern Bangladesh, the ILO, INCIDIN Bangladesh, Save the Children Alliance, and UNICEF Bangladesh for their support. I wish to acknowledge those individuals who assisted me in identifying materials and providing access for me to meet with some of the children involved in their interventions. I am especially grateful to Ms. Thérèse Blanchet, Ms. Rachel Kabir, Ms. Birgitte Ling, Save the Children Sweden, and Ms. Lila Pieters, UNICEF for providing me with substantive comments on the first draft.

I am also grateful to those other individuals and organisations who are undertaking research in this area and/or who are working to combat sexual abuse and exploitation of children who provided information and support that helped me to draft and finalise this report.

I finally wish to express my gratitude to the girls and boys (and their translators) for speaking with me and to those girls and boys who took part in nine consultations held separately with girls and boys having experienced (or most vulnerable) to sexual abuse and/or exploitation. The children participating in the consultations were provided with a summary of this report and their comments have been reflected in the final copy.

¹The 'Core Group' was constituted in February 2001 under the leadership of the Ministry of Women and Children Affairs, with UNICEF Bangladesh serving as secretariat. Its main objective was to assist the Government of Bangladesh to fulfil the obligations made at the 1st World Congress against Commercial Sexual Exploitation of Children, in particular, the development of a National Plan of Action (NPA) to combat sexual exploitation. Of particular note, the members of the Core Group decided that the forthcoming NPA would aim to combat both commercial sexual exploitation (including trafficking) and non-commercial sexual abuse of children.

3. Executive Summary

From the review of secondary information and interviews, it appears that the shame and stigma of sexual abuse and the tendency to blame both the child victims and survivors rather than bring the perpetrator to justice leads to silence and cover-up. This presents a serious obstacle to protecting the rights of children and combating the problem of child sexual abuse and exploitation.

In Bangladesh, as is the case across South Asia, sexual abuse and exploitation are amongst the most prevalent types of violence that affect girls throughout her childhood and adolescence. In contravention of the law, early marriage of girls continues to be prevalent in many parts of Bangladesh and this too can be argued as a form of child sexual abuse. While less has been documented about the vulnerability of boys to sexual abuse and exploitation and its impact on their development, feedback from consultations held with boys and anecdotal evidence reveals that they too suffer in silence.

Girls and boys with disabilities, in institutions outside parental care and refugee children (especially girls) are at risk of sexual abuse and exploitation. Boys and especially girls are at risk of sexual abuse and exploitation in the workplace from both employers and co-workers. Girls are also at risk while travelling to and from work. Those boys and girls 'on the street' who have no parent or guardian to return to at night and who must fend for themselves are at greatest risk of both sexual abuse and exploitation by clients, mastans (musclemen), police and others.

Despite laws and practices ostensibly meant to prevent the entry of girls into brothel-based prostitution, research shows that the average age of entry to prostitution is during adolescence. Bonded girls bought from outside, called *chukris*, are amongst the most exploited of all the prostitutes. Girls and boys who grow up in the brothel environment appear to be at risk of sexual abuse from their mothers' clients, police, mastans, and older sex workers (particularly for boys). Like their mothers, the children also face significant discrimination from the wider community and are rarely permitted to integrate with other children.

Children (especially adolescent girls) may, in fact, be willing and active participants in their own trafficking because they are going with someone who has promised them a better job, marriage and/or life either inside Bangladesh or in another country. It is only at the end of the process that they will find out if they have been trafficked or not. As it is profitable, many have a vested interest in keeping 'trafficking' in existence. This is one of the key obstacles to eliminating trafficking.

In spite of the enormous challenges to combat sexual abuse and exploitation, there are a number of 'good practices' seeking to combat these violations. Among the most innovative and rights-based are those which directly involve children. For example, child drama and theatre groups and adolescent girls' and boys' groups are a participatory and integrated approach to impart awareness and knowledge to other children about their rights, including an awareness of sexual abuse and exploitation. As a group, children have demonstrated themselves capable of challenging the status quo and protecting their rights and those of their peers. The development of children as peer educators is another worthy intervention: not only do they appear to lead to the development of their communication and leadership skills, but also they are treated with respect by their peers and adults, and become more self-confident and assertive.

Other good practices include creating safe havens for children who are being and/or who are at risk of sexual abuse and exploitation; efforts to promote alternative means of livelihood for sexually exploited children; stopping the cycle of sexual exploitation for girls of sex workers, and; the provision of technical support to service providers for developing skills in psycho-social care, including counselling. In addition, efforts to

improve community vigilance to prevent trafficking; working with law enforcement to improve their investigation techniques and efficiency in the quick dispensation of cases (albeit this is more recent); the use of new technology to improve coordination and collaboration among NGOs and government interventions, and; efforts to combat societal discrimination and non-acceptance of sexually abused and/or exploited children are noted as good practices.

With regard to recovery and reintegration, regrettably there are fewer good practices. The greatest obstacle is addressing societal ostracism and blame directed towards the child victim and in this respect, more is known about the challenges of recovering and reintegrating girls and boys in families and communities than success stories.

In conclusion, one notes among the greatest challenges to combating sexual abuse and exploitation of children is creating greater awareness among children and their parents, service providers, and policy makers at the national level. While much research has already been done, there are critical gaps where more in-depth study and analysis is required, notably; the link between sexual abuse and exploitation, and the relationship between insecure working and living conditions and sexual abuse and exploitation (this is particularly aimed at girls and adolescent girls working in the garment industry and domestic service), the profile of the perpetrator of child sexual abuse and exploitation, and; the vulnerability of children of ethnic and religious minorities.

Overall, most research lacks gender sensitivity and in many cases very little is known about the impact child sexual abuse and exploitation has on boys and its impact on girls. More focus on the construction of masculinity is also required and this should include a close examination of parenting practices, particularly those that are discriminatory and place children in a position of vulnerability or exposure to sexual abuse and exploitation.

There is a need for greater coordination and collaboration among implementing organisations and donors. Of note, this weakness has been identified in efforts to combat trafficking and efforts are currently underway to address this critical gap. In addition, the participatory approach to developing the *National Plan of Action against Sexual Abuse and Exploitation of Children, including Trafficking*, involving consultations with children and with active involvement of national and international NGOs provides grounds for optimism that future efforts to combat child sexual abuse and exploitation in Bangladesh will be addressed through a more holistic and coordinated framework.

4. Background and Introduction

Between 17 and 20 December 2001, the 2nd World Congress against Commercial Sexual Exploitation of Children² will take place in Yokohama, Japan. As contained in event circulars, the purpose of the 2nd World Congress is “to review strengths and obstacles, and to monitor progress and other developments needing further actions.”

As part of preliminary activities leading up to the 2nd World Congress, the Government of Bangladesh and the UNICEF Regional Office for South Asia (ROSA) hosted a 'South Asia Consultation for the Second World Congress against Commercial Sexual Exploitation of Children' from 4-6 November 2001 in Dhaka, Bangladesh to assess how countries have implemented the Stockholm Declaration and Agenda for Action from the 1st World Congress held in August 1996; to identify major obstacles and challenges in combating commercial child sexual exploitation and generate suggestions for overcoming them. In preparation for that meeting, each country in the region was requested to compile and exchange examples of good practices.

According to the Terms of Reference for the study, *Good Practices and Priorities in Combating Sexual Abuse and Exploitation of Children in Bangladesh*, the researcher was required to conduct an assessment of selected government, NGO, INGO, and UN agencies' interventions aimed at combating both non-commercial sexual abuse and commercial sexual exploitation of children. The study aims to provide an overview and analysis of the problem of sexual exploitation and abuse of children from existing studies, documents and reports and interviews with administrators and staff of organisations working in this area. The researcher was requested to identify and explain criteria for identifying good practices that are consistent with the United Nations *Convention on the Rights of the Child* (CRC), the Stockholm Declaration and Agenda for Action of the 1st World Congress against Commercial Sexual Exploitation of Children (1996), and other relevant international human rights standards, including ILO Convention No. 182 *Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour*.

A first draft was prepared and circulated to selected individuals and organisations on 30 June 2001. Feedback from the consultations held with nine groups of children² in July and August 2001 have subsequently been incorporated along with comments and additional information gleaned after 30 June 2001. The report has been used to contribute to the formulation of the *National Plan of Action to Combat Sexual Abuse and Exploitation of Children, including Trafficking*.

²The groups of children included separate sessions with girls and boys engaged in street-based prostitution, girls in the shelter home, girls and boys living in the brothel, girls in the safe home, girls engaged in brothel-based prostitution, and boys and girls in Tangail. Refer to the *Report on Findings from Consultations with Children on Sexual Abuse and Exploitation (2001)* by Rachel Kabir for more information, including detailed information about the methodology and ethics of undertaking consultations with children.

5. Limitations of the Paper

The report is based on existing materials from a literature review and interviews and discussions with key individuals working in the area of sexual abuse and exploitation of children undertaken from 1-30 June 2001. The report was finalised after incorporating comments on the first draft and additional information gleaned since that time. While the researcher attempted to scan and incorporate as much relevant information dated from 1996 onwards, it is likely that some reports have not been included. As many of the studies have used a relatively small sample size and/or were carried out over a short period of time, it was difficult to present a national assessment and analysis of the situation. While every effort was made to use reliable sources, the researcher was unable to cross-check the findings. It is difficult to compare the findings from studies with each other because different methodologies were used to gather information.

Overall, less information was found about the experiences of boys with respect to their vulnerability to child sexual abuse and exploitation and how it affects their development. This could be because it is assumed that girls are more at risk of sexual abuse and exploitation than boys. However, consultations held with boys challenge this assumption. While gathering information for this report, the researcher learned about some current research taking place for which the final findings were not yet available. For the above reasons, the researcher therefore invites and strongly encourages those working on, and interested in the issue of child sexual abuse and exploitation to read in detail the studies and findings cited in this report and those forthcoming reports.





Bondona Ramy Dey
Subject: d

Chapter 1 Definition of terminology used

At the outset, it is important to define and explain the terminology used in the following report, in particular, what is meant by 'child', 'trafficking', 'child pornography', 'sale of children', 'sexual abuse' and 'sexual exploitation'. The terms of reference for the study state clearly that a human rights-based approach that adheres to the international standards set by the Convention on the Rights of the Child (CRC), 1990, the Stockholm Declaration and Agenda for Action, 1996, and other relevant international human rights standards is required.

Nevertheless, it is widely recognised and acknowledged that there still exists lack of clarity, understanding and acceptance of some of the terms and definitions, particularly those regarding 'child', 'trafficking', 'sexual abuse' and 'sexual exploitation' of children, even amongst those defined in international human rights standards. This is in part because societies construct meanings according to their own norms and practices.

To illustrate the complexity, yet significance of language, the following definitions and a highlight of some of the main concerns and weaknesses associated with those used in this report are presented below.

Understanding and Conceptualisation of 'child' and children's rights

A 'child', for purposes of the study, is any human being below the age of 18 years. This is clearly stated in Article 1 of the Convention on the Rights of the Child, and its two Optional Protocols. While the CRC remains the most widely ratified human rights instrument to date, it is interesting that in many societies the upper age of childhood, marking entrance to adulthood, is much lower. This is also the situation in Bangladesh.³ In Bangladesh the narrower definition of childhood (up to 14 or 16 years of age depending on the law), combined with gender discrimination has a negative impact on the female child, particularly when she reaches puberty and is more likely to become vulnerable to sexual abuse and exploitation.⁴ It should be noted that most adolescents are also children (according to UNICEF and WHO definitions an adolescent is between 10 and 19 years of age).

³According to the Nari O Shishu Nirjaton Domon Act, 2000 (an unofficial English translation is attached in Annex 1), a child is defined as any person under 14 year of age, whereas the Children Act, 1974 defines a child as anyone under 16 years of age. Moreover, socially and culturally, upon reaching puberty most girls are viewed as women.

⁴Anthropologist Thérèse Blanchet, in her 1996 study of childhood in Bangladesh, explains that the word shishu, the Bangla word used to describe 'child' is understood differently from that defined in the CRC⁴. As she presents in her study, shishu is understood to mean 'small child' and the term shishu adhikar, literally translated into 'children's rights', is more widely understood to mean small children's needs and evokes an emotional and apolitical response towards young children. As Blanchet points out, this denies older children, those who are most often burdened with heavy responsibilities and workloads, girls who reach puberty and who are at risk of early marriage, and others, their rights as a child, especially protection from such violations of their rights. Another concern about the term shishu is that it does not recognise the critical issue of gender, rather "it describes a life-stage where boys and girls effectively mix and play freely together. But this is a phase which does not last long in a society which is marked by an ethos of *purdah*." (see: Thérèse Blanchet, *Lost Innocence, Stolen Childhoods* (Dhaka: University Press Limited, 1996), p.38-39.)

Moreover, researcher Dr Sajeda Amin has found that for many girls, the search for a husband starts around the onset of menstruation and may result in marriage before menarche. (See: Dr Sajeda Amin, 'Female Education and Fertility in Bangladesh: The Influence of Marriage and the Family' in Jeffery, Roger and Basu, Alaka M (eds.) *Girls' Schooling, Women's Autonomy and Fertility Change in South Asia* (New Delhi: Sage Publications, 1996) pp.184-204). 'When the adolescent girl reaches puberty, which could be as early as 10 years of age, a drastic change takes place in the girl's life: whereas she may have previously freely mixed and played with boys, she now is likely to be restricted to her home, forced to wear a conservative salwar kameez and even be withdrawn from school (the latter practice is fortunately changing). She is often no longer viewed as a child, but as a woman and moves straight into marriage even though she is unprepared, both psychologically and physically.'

As Rachel Kabir notes in the UNICEF report, *The Situation of Adolescent Girls in Bangladesh*, there is a large age gap between married women and girls and their husbands, between 7 and 9 years according to different surveys. This difference in ages and unequal power relations between the husband and wife puts the girl at greater risk of sexual abuse and exploitation because she is unlikely to be able to choose when and if she wants sex. (See: Rachel Kabir, *The Situation of Adolescent Girls in Bangladesh* (Dhaka: UNICEF, 1999), p.10).

Sexual abuse

There is a tendency to use the terms 'sexual abuse' and 'sexual exploitation' interchangeably, which can lead to confusion. For purposes of this report, the United Nations definition (provided below) shall be used:

Sexual abuse of children can be defined as contacts or interactions between a child and an older or more knowledgeable child or adult (a stranger, sibling or person in a position of authority, such as a parent or caretaker) when the child is being used as an object of gratification for an older child's or adult's sexual needs. These contacts or interactions are carried out against the child using force, trickery, bribes, threats or pressure. Sexual abuse can be physical, verbal or emotional and includes:

touching and fondling of the sexual portions of the child's body (genitals and anus) or touching the breasts of pubescent females, or the child's touching the sexual portions of a partner's body;

Sexual kissing;

Penetration, which includes penile, digital, and object penetration of the vagina, mouth or anus;

Exposing children to adult sexual activity or pornographic movies and photographs;

Making lewd comments about the child's body;

Having children pose, undress or perform in a sexual fashion on film or in person (exhibitionism);

'Peeping' into bathrooms or bedrooms to spy on a child (voyeurism).⁵

UNICEF, the World Health Organisation (WHO) and Save the Children also have definitions for 'sexual abuse', however, the United Nations definition appears to be the most comprehensive, incorporating all the elements of the other definitions.⁶

⁵Focal Point against Sexual Exploitation of Children 'Definitions on child sexual abuse and related terms' (<http://www.focalpointngo.org/ngonews/defiChildAbuse.htm>)

⁶According to Save the Children, 'sexual abuse and exploitation' is

the imposition of sexually inappropriate acts, or acts with sexual overtones by one or more persons, who derive authority through ongoing emotional or professional bonding with that child or who have a commercial or other interest in the child. (Source: Turid Heiberg, *Commodities in stigma and shame: an international overview of Save the Children's work against Child Sexual Abuse and Exploitation* (Save the Children, 2001).

UNICEF provides a separate definition for 'child sexual abuse':

[c]hild sexual abuse is the involvement of a child in a sexual activity to which he or she is unable to give informed consent (and may not fully comprehend), or for which the child is not developmentally prepared and cannot give consent, or which violates the laws and taboos of society...The perpetrators are an adolescent or adult who by age or development is in a relationship of responsibility or power to the child. (Source: www.unicef.org/programme/protection/traf.htm 28 May 2001).

UNICEF's Innocenti Research Centre, adds the following to the above definition:

The definition of sexual abuse of children in many societies covers any sexual activity with someone who is not legally competent to give consent, or has refused consent. Thus, a charge of sexual abuse would apply even in cases when a person below the age of consent appears a willing or even an initiating partner. The definition of criminal activities also includes sexual activities at any age with close adult family members (incest). The justification for these protective measures comes from the growing body of evidence that such activity can cause both physical injury to still-developing bodies and serious psychological damage. (Source: Innocenti Digest, No.2: 9/1997 in Focal Point against Sexual Exploitation of Children, 'Definitions on child sexual abuse and related terms' (<http://www.focalpointngo.org/ngonews/defiChildAbuse.htm>).

What is explicit in the above definition is that sexual abuse and exploitation is not limited to penetrative sex (vaginal or anal), but rather also includes lewd comments, touching and kissing.⁷

Children involved in armed conflicts, in refugee camps and/or separated from the parents are vulnerable to sexual abuse. As 'sexual abuse' is understood, no commercial transaction takes place.

The WHO definition of child sexual abuse is similar to that of UNICEF's and is as follows:

Child sexual abuse is the involvement of a child in sexual activity that he or she does not fully comprehend, is unable to give informed consent to, or for which the child is not developmentally prepared and cannot give consent, or that violate the laws or social taboos or society. Child sexual abuse is evidenced by this activity between a child and an adult or another child who by age or development is in a relationship of responsibility, trust or power, the activity being intended is to gratify or satisfy the needs of the other person. This may include but is not limited to:

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity.
 - (b) The exploitative use of child in prostitution or other unlawful sexual practices.
 - (c) The exploitative use of children in pornographic performances and materials.
- (Source: Report on the consultation on child abuse prevention, WHO, Geneva 1999).

⁷ In Bangladesh, the NGOs Breaking the Silence and INCIDIN Bangladesh likewise include caressing, fondling and kissing, genital manipulation and full penetrative sex in their definitions of child sexual abuse. Source: Breaking the Silence, *Non-Commercial Sexual Abuse of Children in Bangladesh* (Dhaka: Breaking the Silence Group, March 1997), p. 11 and also cited in INCIDIN Bangladesh, *Misplaced Childhood: A Short Study on the Street Child Prostitutes in Dhaka City* (Dhaka, INCIDIN, with the support of Red Barnet, September 1997) p.24.



Sexual exploitation

According to the UNICEF definition,

sexual abuse becomes sexual exploitation when a second party benefits— through a profit or through a quid pro quo— through sexual activity involving a child. This can include prostitution and child pornography.

With regard to child 'sexual exploitation,' the child knows the organisers (for example, the madams or pimps), but the 'customers' are often (at least in the beginning) strangers.⁸ Sexual exploitation is globally understood to include the following: trafficking in children for purposes of sexual exploitation, child sex tourism, distribution of pornographic material featuring children, sexual abuse rings, the exploitative use of a child in prostitution or other unlawful sexual practices.⁹

Trafficking

The most encompassing (and most recent) definition of 'trafficking' is that contained in the United Nations *Convention against Transnational Organised Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* (adopted by the General Assembly in November 2000). As noted in the definition below, fraud and deception, for example, the promise of false and/or secure jobs, constitutes 'trafficking'

As defined in Article 3 of the Optional Protocol which was opened for signature in December 2000,

For the purposes of this Protocol:

(a) "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

(c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article;

(d) "Child" shall mean any person under eighteen years of age.¹⁰

This is the first universally accepted definition of trafficking in persons and is a complement to the CRC. It is this definition of 'trafficking' which is to be understood in the context of this paper.

⁸ Turid Heiberg, *Commodities in stigma and shame: an international overview of Save the Children's work against Child Sexual Abuse and Exploitation* (Save the Children, 2001) p. 13.

⁹ INCIDIN (1997), p. 13.

¹⁰ Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime.

Sale of children, child prostitution and child pornography

Two of the most recent international human rights instruments to protect and promote the rights of the child, particularly with regard to sexual exploitation are the *Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography* which was adopted in May 2000¹¹ and ILO Convention *Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour* (No. 182) and its accompanying *Recommendation on the Worst Forms of Child Labour* (No. 190) which was adopted in June 1999.

Bangladesh was among the first countries to sign and ratify the Optional Protocol last September 2000 which will become legally binding on 18 January 2002. Bangladesh ratified ILO Convention No. 182 in March 2001.

As defined under Article 2 of the *Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*:

For the purposes of the present Protocol:

- (a) **Sale of children** means any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration; **[my emphasis]**
- (b) **Child prostitution** means the use of a child in sexual activities for remuneration or any other form of consideration; **[my emphasis]**
- (c) **Child pornography** means any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes **[my emphasis]**.¹²

According to Article 3 of ILO Convention No. 182,

For the purposes of this Convention, the term 'the worst forms of child labour' comprises:

- (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
- (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;
- (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

As noted above in ILO Convention No. 182, although 'trafficking' is not defined, it is considered similar to slavery and within the definition of the 'worst forms of child labour.'

¹¹ United Nations General Assembly Resolution A/RES/54/263 of 25 May 2000.

¹² Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (General Assembly Resolution A/RES/54/263 of 25 May 2000 (<http://www.unhchr.ch>)).



Chapter 2 Situation Assessment and Analysis

The following section seeks to create a picture of the situation and extent of sexual abuse and exploitation in Bangladesh. It has been compiled and is further analysed from reports and documents (published and non-published) on sexual abuse and exploitation of children in Bangladesh and conversations with government officials, NGO and INGO workers in these areas, UN officials, medical doctors, activists and others.

Sexual abuse and its commercial manifestation, sexual exploitation of children, occurs worldwide and in a variety of settings, including the family, home, school, and workplace. Although for socio-cultural reasons the recognition may not be forthcoming, (particularly in the area of sexual abuse where less is known) there is no doubt that it exists everywhere.

In Bangladesh, there is a low societal recognition and acceptance, even by children, that they are holders of rights and that their voices must be heard. This suggests that they may not speak out when such violations are occurring. The shame and stigma of sexual abuse and the tendency to blame the victim and survivor rather than the perpetrator leads to silence and cover-up.

The difficulty of accessing justice is a further impediment to victims of sexual abuse and exploitation. According to a 1996 survey of 2,500 rural and urban households conducted by Transparency International's Bangladesh chapter, more than 96% of respondents said they could not get help from the police without money or influence and 89% said that quick and just settlement from the courts was impossible without bribes and influence.¹³

For the above reasons, it is rare that parents will support their children to report such violations and seek prosecution of the offender. Rather, the victim her or himself may be blamed and cast out from the family. The perpetrator is also likely to put pressure on the victim and his/her family to withdraw a case in the rare case that it is filed.

The bulk of research indicates that it is girls who experience greater mental trauma and stigma than boys after they have been sexually abused and/or exploited, however, anecdotal evidence from consultations with boys suggests that they too experience a feeling of having been '*noshto*' or 'spoiled'.¹⁴ There is a need for more gender-sensitive work in this area.

Demography

According to the preliminary report of the Population Census 2001, the population (adjusted) is 129.2 million.¹⁵ In 1996, there were approximately 59.7 million children and adolescents up to 19 years of age, with 13.4 million boys and 13 million girls between the ages 10 and 19 years.¹⁶ The population is overwhelmingly rural, with over 76% of the population living in a rural setting.¹⁷

¹³ Cited in The World Bank, *Corruption in Bangladesh: Costs and Cures* (Dhaka: World Bank, Draft of 20 March 2000) p.8.

¹⁴ Discussion with Rachel Kabir regarding consultations held with children in July and August 2001, 24 September 2001, Dhaka

¹⁵ BBS, *Population Census 2001 Preliminary Report* (Dhaka: BBS, August 2001).

¹⁶ BBS, *Statistical Pocketbook of Bangladesh 1999* (Dhaka: BBS, November 2000), Table 3.07, Numerical and Percentage Distribution of the Population of 1996 by age, sex and residence (projected).

¹⁷ BBS, *Population Census 2001 Preliminary Report* (Dhaka: BBS, August 2001)

However, this situation is changing rapidly: between 1980 and 1995, the proportion of the urban population in the total population of Bangladesh nearly doubled from 11 to 18% (with an annual average growth rate of 5.6%, the highest of South Asia).¹⁸ In 1995, the urban population was estimated to be 26.2 million and by 1998 had already reached approximately 30 million (an increase of 4.8%).¹⁹ Approximately 5/6 of working children live in rural areas, but as the rate of urbanisation increases, it is expected that so too will the proportion of urban working children.²⁰

Sexual abuse of children

In Bangladesh, Breaking the Silence, in its 1997 report, *Non-Commercial Sexual Abuse of Children in Bangladesh* initiated a process to address an issue that largely goes unrecognised and even denied. Group members, meeting with the researcher, explained that before the report came out, many people refused to accept that non-commercial sexual abuse of children was taking place in Bangladesh and/or preferred to remain silent.²¹

According to the World Health Organisation (WHO), studies conducted in 19 countries have reported sexual abuse prevalence rates ranging from 7-34% among girls and 3-29% among boys.²² Breaking the Silence members said it is impossible to share a statistic on the extent of child sexual abuse in Bangladesh. However, they did say that they have found more girls are being abused than boys. During the consultations held with children, one girl when asked for her opinion about girls' risk to sexual abuse had this response: "3/3 girls in Bangladesh are sexually abused."²³ Boys, in contrast, replied that 1/20 boys are sexually abused.²⁴

Of 50 case studies of sexually abused children equally from urban and rural areas, literate and illiterate, Breaking the Silence found that principal perpetrators to be family members and friends of the family. A teacher and a tutor were identified as abusers as well. The study found that girls and boys between 10 and 14 years are equally vulnerable to abuse, however, in most cases boys become 'safe' when they are physically strong enough to defend themselves. Girls, in contrast, remain vulnerable and are especially at risk when they reach puberty and their bodies start becoming sexually mature. When boys and girls involved in the child consultations were asked what age they believed children are most at risk of sexual abuse they replied 6-10 years, and said close relatives were main perpetrators.²⁵ They explained that younger children do not understand the risk and danger, whereas they understand the dangers as they get older.²⁶ They said "girls aged 11-17 are vulnerable as a result of their romantic involvement with boys."²⁷ Boys said they are less at risk of sexual abuse the older they become.²⁸ This is because they are physically strong enough to resist.

¹⁸ Rita Asfar, *Rural-Urban Migration in Bangladesh Causes, Consequences and Challenges* (Dhaka: University Press Limited, 2000) p.22.

¹⁹ BBS, *Report of the Urban Poverty Monitoring Survey April 1998, 2000*.

²⁰ BBS, *Child Labour Survey 1995-1996*.

²¹ Discussion between Roxana Sultana, Member Secretary, Sadeka Islam, Social Counsellor and Abul Khaer, Coordinator, Breaking the Silence and researcher, Breaking the Silence, 14 June 2001.

²² WHO, 'WHO recognises child abuse as a major public health problem,' Press Release WHO/20 8 April 1999 (www.who.int/inf-pr-1999/en/pr99-20.html) The WHO definition of child sexual abuse is similar to that of UNICEF's (refer to section on terminology).

²³ Discussion with Rachel Kabir, Dhaka 23 September 2001 based on her findings from holding consultations with boys and girls in July and August 2001.

²⁴ Ibid.

²⁵ Ibid.

²⁶ Ibid.

²⁷ Ibid.

²⁸ Ibid.

In one case in the Breaking the Silence report, a boy was raped by a distant relative when taking his family's cows out for grazing (his main household job).²⁹ Upon returning home, he told his mother that he would no longer take the cattle out for grazing and when his mother asked why, he told her what had happened. Later that evening, she told his father. They confronted the abuser and demanded an apology. Although the parents decided not to complain to the village elders, it was the only case amongst the 50 studies where the abused child fought back. By threatening not to do his work, his parents took some action.

What Breaking the Silence found from all its case studies is that boys seem to experience less stigma than girls who are quickly labelled '*noshto mae*' or '*noshto meye*'³⁰ ('spoiled' girl). The experience affects her family as well: not only will the girl have a difficult time finding a husband, but her sisters as well.³¹ Overall, it is also more difficult to keep any such incident of sexual abuse in a rural setting out of the public domain. Girls consulted about child sexual abuse said that a girl who has been sexually abused may get married but the dowry price will be higher for her and her husband will "taunt her about the experience" and hold that against her.³²

The Breaking the Silence social counsellor suspects that when some of the women say sexual abuse is happening to other people's children they are often talking about their own. If child sexual abuse is suspected, the mothers are encouraged to take their children to the Child Development Centre at the Shishu Hospital, Dhaka for counselling and follow-up. Monwara Parveen, Child Psychologist at the Child Development Centre said that NGOs also refer suspected child sexual abuse cases to them for investigation and counselling.³³

One frustration and key obstacle shared by Breaking the Silence members and Monwara Parveen is that mothers fear the stigma if family members and friends come to know and therefore are likely to keep any such suspicions hidden. The members said they knew of no cases of sexual abuse being tried in the courts because no one wants to reveal it is happening and family members would prefer to solve the problem within their own home. It is also likely that they have little faith in the justice system.

²⁹ Breaking the Silence, *Non-Commercial Sexual Abuse of Children in Bangladesh* (Dhaka: Breaking the Silence Group, March 1997), case study, rural boy 6, p.33-34.

³⁰ As explained in the Breaking the Silence report, '*noshto mae*' or '*noshto meye*' means 'spoiled' girl. 'The implication are [sic] that she has behaved in such a way pertaining to sex that she has to be ostracized. A girl who has had a sexual encounter only once would be liable to be called a *noshto meye*, if it becomes public, just as much as a commercial sex worker would be. So *noshto meye* would mean a girl/woman who has stepped out of the acceptable line of socio-sexual behaviour. There is no synonym for boys/men in the language to mean the same as '*noshto meye*'. p.73.

³¹ Ibid, p.5.

³² Discussion with Rachel Kabir on findings from consultations held with children in July and August 2001, 23 September 2001.

³³ Discussion with Monwara Parveen, Child Psychologist, Child Development Centre, Shishu Hospital, 24 June 2001, Dhaka.

Sadeka Islam shared one exceptional case with the researcher:

Some time ago, one mid-wife who came from North West Bangladesh to attend a training at the Radda Clinic shared a case with the social counsellor. Two girl cousins, aged 4.5 and 5 years were abused by the 22-25 year-old son of a prominent social leader. They died within two weeks of each other from injuries caused by rape. A group of women members from Proshika, a large NGO, came to learn of the case and went to the Union Parishad Chairman to raise this issue with him. The Chairman listened to the women, took them seriously and went to the police. The young man was arrested and is still in jail.

Source: Discussion with Sadeka Islam, Social Counsellor, Breaking the Silence, Mohammadpur, Dhaka, 14 June 2001.

Sadeka Islam explained that if a group raises their voice in protest then it is possible to get justice, otherwise it is not likely. However, as mentioned, in most cases, the children and their families tend to hide what has happened.

In a recent study on the state of children's rights in Bangladesh, the Shishu Adhikar Sangjog wrote the following with regard to child sexual abuse:

Bangladeshi culture sees children as largely passive, to be regulated and controlled by the adults around them. The understanding and awareness of child rights is almost non-existent, among wider society. Corporal punishment is widely practiced and accepted, and adult power over children is absolute. This fact, in combination with social mores which emphasise the need to cover up any source of "shame" e.g. sexual abuse, mean that children who are caught in situations of physical or mental abuse will be coerced into silence by not only the abusing adults, but also those who are supposed to be their protectors e.g. parents. As incidents that might involve public condemnation have an impact on other family members as well as the victim, it increases the pressure to cover up such violations. In most cases, the abusers are known to adults, not strangers, and this heightens the sense of guilt, shame, betrayal and trauma experienced by their victims. In cases of incest or rape by family members, this is probably at its worst. Finally, while children of both sexes are victims of molestation, the frequency with which girls are found to be victims indicates their greater vulnerability to such predatory adults.³⁴

³⁴ Shishu Adhikar Sangjog, *Child Rights: Reality and Challenges* (Dhaka: The British Council, 2001), p.12.

Early marriage

The stigma and shame associated with sex outside marriage is a significant reason why girls are married young. It is ironic that in a culture which places less values on females, a family's honour is closely linked to their daughter's chastity and should that be violated outside marriage, shame and stigma forces the girl out of her home. As mentioned above, the label *noshto meye* is often given to the girl who was sexually abused; it is also a common term for a prostitute.³⁵

The onset of puberty is particularly a dangerous period for girls. It is widely accepted that when she reaches puberty (sometimes as young as 10 years of age), she is no longer a child, but a 'woman' and can therefore be married. As they are no longer viewed as children, they are denied the protection of childhood: not only are they at risk of early marriage, but also they are at greater risk of sexual violence, both sexual abuse and exploitation. UNICEF Senior Advisor, Ruth Finney Hayward, in her study on violence against girls and women in South Asia, found that sexual abuse and exploitation are amongst the most prevalent types of violence that affect the girl through her childhood and adolescence.³⁶

The Child Marriage Restraint Act, 1929, provides 18 years as the minimum age for girls and 21 for men, however, girls in Bangladesh continue to get married at a very young age. According to the 1996/97 *Bangladesh Demographic and Health Survey (BDHS)*, by the age of 19 years, more than half of adolescent girls are married.³⁷ The 1991 Bangladesh Bureau of Statistics (BBS) figures report similar findings.³⁸ Moreover, BDHS found that by the age of 19, as many as 58% of girls had begun childbearing.³⁹

As mentioned above, the generally low recognition that an adolescent girl is still a 'child' contributes to the persistence of early marriage. Moreover, parents do not clearly understand the impact of early marriage on their daughter. An absence of universal birth registration also contributes to the acceptance of false statements of age for marriage registration.

Widespread lack of awareness about the protective function of registering one's marriage means that many women and child brides are "hoodwinked into sexual relationships with men whom they have thought to have married, only to be discarded by the latter on the denial that any marriage has taken place."⁴⁰ According to case studies of girls who end up engaged in prostitution, a substantial number have been married only to discover soon after that they have been deceived and that their husband has sold them for sexual exploitation.

³⁵ see also Blanchet (1996), p.255.

³⁶ Ruth Finney Hayward, *Breaking the Earthenware Jar* (Kathmandu: UNICEF, 2000), p.7.

³⁷ BDHS 1996, p.10.

³⁸ BBS (November 2000), Table 3.08. According to BBS, 3% of 10-14 year-old girls and 49.6% of 15-19 year-old girls and adolescents are currently married.

³⁹ BDHS 1996, p.10.

⁴⁰ Saira Rahman Khan, *The Socio-Legal Status of Bangali Women in Bangladesh* (Dhaka: University Press Limited, 2001), p.84.

As Rachel Kabir points out in her report on adolescent girls in Bangladesh, the significant age difference between husbands and wives, which averages from 7 years (BBS, 1998) to 9 years (Mitra et al, 1997) helps to preserve the traditional cultural pattern of an older husband dominating a much younger subservient wife.⁴¹ The significant age gap and differences in maturity levels may also contribute to the likelihood of the marriage breaking down, the husband abandoning his wife, and/or him marrying someone else. Without having a means to earn an income, abandonment and divorce make many girls, especially those with children who they must support, vulnerable to sexual abuse and exploitation.

Children with disabilities

There are no complete figures for the prevalence of children with disabilities, however, according to BBS 1996 figures, 12.6% of children up to 14 years of age have disabilities which range from mild to serious.⁴² Children with disabilities are frequently kept isolated and concealed which puts them at greater risk of sexual abuse.⁴³ Such children, especially those with more serious disabilities, may not be able to understand and/or communicate what is happening to them. Society's discriminatory and negative attitudes towards children with disabilities make such children easy victims of sexual abuse. Interviews with service providers in a special school of the Bangladesh Protibondhi Foundation revealed the following:

A 7 year old girl with [an] intellectual disability attending a special school was repeatedly found by the special teacher to be engaged in self-stimulating sexual behaviour inappropriate of her age. Being concerned, she referred [her] to the doctor who, after examining her found that the child had being [sic] sexually abused. [An] interview of the mother and a visit to the home revealed a pathetic picture. The father was a shopkeeper and had to stay out late most of the days. A paternal uncle used to stay with them, who looked after the child and the household. There were only two rooms. In one room [the] parents slept with her younger brother and in the other room the child had to share the same bed with her uncle. Her uncle sexually abused her. Her mother, knowing the situation, kept silent and did not protect the child as she also had an illegitimate relationship with the said uncle.

Source: Shishu Adhikar Sangjog, *Child Rights: Reality and Challenges*, (Dhaka: The British Council, 2001), p.67.

⁴¹ Kabir (1999), p.10.

⁴² BBS figures cited in Shishu Adhikar Sangjog (2001), p. 56.

⁴³ Shishu Adhikar Sangjog (2001), p. 68.

Moreover, a survey of parents and family members of 95 children with disabilities revealed that some mothers did not believe their child could be sexually abused and were not taking steps to protect the child.⁴⁴

Girls and boys growing up in brothels

Children who grow up in the brothel environment are at risk of sexual abuse from clients, police and *mastans* (some of whom are also clients). Like their mothers, both girls and boys face significant discrimination from the wider community and are rarely permitted to integrate with other children. Many girls are initiated into 'prostitution' at an early age. Boys are also at risk of sexual abuse, although less is known about their situation.

Thirteen percent of the prostitutes interviewed in a Department of Social Services (DSS) study were born or brought up in the brothel.⁴⁵ A recent study undertaken by Save the Children Australia, with support from Save the Children Sweden presents a compelling picture of the situation of children growing up in Daulotdia and Kandapara brothels. As is custom, until recently almost all daughters of women engaged in prostitution would follow in their mother's footsteps.⁴⁶ Choice of profession is rarely a possibility because prostitutes and their children are not accepted by the rest of society and are rarely permitted to integrate with those who live outside the brothel. The children experience low self-esteem and are deeply affected by the negative way in which society views them and their mothers. Thoughts of suicide are common. Seventy-eight percent of the children said they did not like their mother's profession because they do not get any respect.⁴⁷ Three of the children interviewed reported that the school authority refused to admit them to school, presumably because they are children of sex workers.⁴⁸

Eight or nine was the age of first sexual experience reported by most girls brought up in the brothel and their first encounters were with older boys. In some cases, however, the girls are abused by their mother's clients, including being made to dance for them.

While the Save the Children study indicates that some of the sexual activity is not consensual, Thérèse Blanchet has found from her study that it is not in the interest of prostitutes that their clients are having sex with girls who have not been registered.⁴⁹ She believes that if they are true, such coercive activities must be taking place outside the brothel.⁵⁰

⁴⁴ Ibid. p.67.

⁴⁵ Department of Social Services, (2000) p.5.

⁴⁶ Uddin, Md. Farid; Sultana, Monira; Mahmud, Sultan; [Maggie Black, Harriet Goodman and Rachel Kabir (eds.)], Growing up in the Daulotdia and Kandapara brothel communities of Bangladesh (Save the Children Sweden, draft of January 2001). According to the findings, most girls accept that they will follow in their mothers' footsteps and become a sex worker, however, there are some cases where girls have resisted with the support of NGOs. See 'Good Practices' section for more information on the case of Anesa and her role in Daulotdia brothel.

⁴⁷ Department of Social Services (2000), p.9.

⁴⁸ Ibid.

⁴⁹ Discussion with Thérèse Blanchet, 24 September 2001, Dhaka.

⁵⁰ Ibid.

As the girl approaches menarche, girls report that their mothers start preparing them for sex work and presents her with nice clothes and jewellery to show off her body. Many girls report their mothers or caregivers try to prepare them for intercourse, however, such procedures can cause vaginal bleeding, fever and other complications and does not seem to lessen the pain of their first sexual experiences with clients.

Boys themselves may be targets for older boys, adult clients, or older sex workers.⁵¹ Few will admit to having sex with boys or men but there is evidence that it is widespread in both brothel communities studied. A consultation held with a group of boys who lived in Daulotdia brothel revealed other concerns as well: the lack of a quiet place to study and the overall environment is a serious problem for them.⁵²

Children in institutions

While sexual abuse undoubtedly takes place in institutions, there is not a lot of primary information about sexual abuse of girls and boys in institutions, including schools, shelter homes, Vagrants' Homes and correctional centres. Nevertheless, from existing reports and discussions with girls and boys themselves, a partial picture of the extent and nature of sexual abuse of children living outside parental care is presented below.

Boys in schools

Boys consulted about sexual abuse in and boys engaged in street-based prostitution said that those who are sent to residential madrassahs are vulnerable to sexual abuse and that teachers are the main perpetrators of abuse.⁵³ The following case study provides one such example:

His teacher Rafiqul, aged 47 years, abused Tareque, a nine-year-old student of a *madrassah* (religious teaching centre). Rafiqul told the young boy that it was his religious duty to masturbate an adult and this should not be shared with anyone. When the matter was discovered by the head Moulana (religious teacher) of the *madrassah*, the abuse stopped but the criminal teacher was not sacked. The head Moulana thought that it would bring shame to the educational institute...

Source: Case study provided by Afsan Chowdhury for Shishu Adhikar Sangjog, *Child Rights: Reality and Challenges* (Dhaka: The British Council, 2001), p. 108.

⁵¹ Uddin, Sultana and Mahmud, (Save the Children Sweden, January 2001 draft) p.38.

⁵² Discussion with Rachel Kabir about consultations held with children between July and August 2001, particularly the group of boys living in Daulotdia brothel, 23 September 2001, Dhaka.

⁵³ Discussion with Rachel Kabir based on her findings from holding consultations with children about sexual abuse and exploitation in July and August 2001, 23 September 2001, Dhaka.

Boys and Girls in Vagrants' Homes

There are six Vagrants' Homes in Bangladesh run by the Department of Social Services, Ministry of Social Welfare. Those living in the Vagrants' Homes have been arrested and detained under the Bengal Vagrancy Act, 1943 which defines a 'vagrant' as,

a person found asking for alms in any public place, or wandering about or remaining in any public place in such condition or manner as makes it likely that such person exists for asking for alms but does not include a person collecting money or asking for food or gifts for a prescribed purpose.⁵⁴

According to the Act, a 'child' is defined as anyone under 14 years of age.⁵⁵

A study was undertaken with the support of the Ministry of Law, Justice and Parliamentary Affairs and UNDP in early 1999 to assess the situation in the Vagrants' Homes.⁵⁶ This was done through Participatory Rapid Appraisal (PRA) sessions and other techniques with residents, former residents (including girls and women engaged in street-based prostitution), staff of the Vagrants' Homes and concerned lawyers and activists.⁵⁷ Interestingly, many of the children interviewed said they were engaged as vendors and were not 'asking for alms' (as per the definition of 'vagrants' in the Vagrancy Act) when they were picked up and arrested by the police.⁵⁸ In the report, a senior government official in the Mirpur Reception Centre admitted that innocent children are being arrested: "the police are not arresting according to the procedure."⁵⁹

According to the discussions, girls and women engaged in street-based prostitution are required to pay bribes to the police to avoid being sent to the Vagrants' Home.⁶⁰ Bribes also appear to be required to get quick release from both the Mirpur Reception Centre and the Vagrants' Homes and the price varies according to the person.⁶¹

⁵⁴ Chapter I, Section 2(9) Bengal Act VII of 1943, Vagrancy Act, 1943 (as amended up to 1974).

⁵⁵ Ibid, Chapter I, Section 2 (3).

⁵⁶ Institutional Development of Human Rights in Bangladesh, *Human Rights Situation in the Vagrant Homes* (Dhaka: IDHRB with the support of UNDP and Ministry of Law, Justice and Parliamentary Affairs, 1999).

⁵⁷ The sample size included the staff of all the Vagrants' Homes, at least 2-3 PRA sessions/home with 15-25 residents. 4-8 residents were randomly selected for in-depth interviews for the case studies. It was more difficult to get former residents of the Homes because addresses were not available. Some of the 'floating commercial sex workers' involved in the Shakti project of CARE-Bangladesh who had lived in the Vagrants' Homes were also interviewed to cross-check data and get some preliminary information on the situation in the homes.

⁵⁸ One boy in the Betila Vagrants' Home in Manikganj told the researcher that he had been selling water at the airport when he had been picked up by the police, arrested and taken to the Mirpur Reception Centre. 18 June 2001.

⁵⁹ IDHRB (1999), p.xxii.

⁶⁰ Ibid, p. xiv.

⁶¹ Ibid, p.22

There are two conditions for release from the Vagrants' Home: reunification with family and employment. Girls and women, many of whom are trained as garment workers, reported that when they are provided with employment in the garment factories they are demoralised. This is because they experience ostracism from employers and colleagues due to their background.⁶² Another concern for at least some of them is that of the low income the children and women first earn upon release. One inmate at Godnail Vagrants' Home in Narayanganj said that she does not want to leave the home because the monthly income at the garment factory, 700 Taka, is not enough to maintain her and her son and she is afraid she will be compelled to go back to work as a sex worker.⁶³

Of additional concern, not only did some residents and ex-residents claim to be sexually and physically abused by officials of the Vagrants' Homes, but also there are reports of fighting and nonconsensual sexual relations between residents themselves.⁶⁴ In the boys' homes, it is reported by both residents and ex-residents that the older ones frequently torture the younger ones. The nature of this abuse is not provided, however, it is likely both physical and sexual. Residents say that officials are complicit in this because they use the leaders to get information about the situation in the home.⁶⁵ They reward the 'leaders' with good food.⁶⁶

Focus group discussions with the staff of some of the Vagrants' Homes for girls and women, including Godnail Vagrants' Home in Narayanganj and Kashimpur Vagrants' Home in Gazipur, revealed that sexual relationships often develop among the residents of the homes, particularly for those who stay there for long periods of time.⁶⁷ In some cases, for example at the Kashimpur Home, fights between residents over relationships are frequent. Kashimpur staff noted that facial disfigurement is often caused because of the fighting.⁶⁸ There were no cases reported of males having sex with males. However, it is probable that it is also taking place and is nonconsensual. A shortage of beds and bedding in all the homes may contribute to the sexual relationships given that it was reported that 3-4 persons share the same blanket.⁶⁹ This also contributes to the transmission of communicable diseases and sexually transmitted infections (STIs), which is another problem faced in the Vagrants' Homes, particularly those where many of the residents have previously been engaged in prostitution.

At Pubail Vagrants' Home in Gazipur, focus group discussions with the female residents revealed sexual and physical abuse by the staff of the home:

'Many of the girls are taken home (by the officials, etc) and they are subjected to torture and sexual abuse; if they become pregnant they are sent to Godnail [Vagrant Home in Narayanganj which has the only facility amongst the Vagrants' Homes for childbirth].⁷⁰

⁶² Ibid, xv.

⁶³ Ibid, lxviii.

⁶⁴ See IDHRB report and visit of researcher to Betila and Godnail Vagrants' Home in June 2001.

⁶⁵ Ibid, lxiii.

⁶⁶ Ibid.

⁶⁷ Ibid, p. 18.

⁶⁸ Ibid, p. 1.

⁶⁹ Ibid.

⁷⁰ Ibid, p. lx.

In the two homes visited by the researcher, there were a number of children with visible disabilities, including Down's Syndrome.⁷¹ There were also several boys in the Betila Home who were visibly mentally disturbed. There are no specialists to look after the children. Given that children with disability are frequently discriminated against and ostracised, it is likely they are among the worse off. Moreover, it is possible that they may be a risk to other children.

Vulnerability of Rohingya refugees

A 1998 study conducted by UBINIG on the situation of Rohingya women and children living in Cox's Bazar and Teknaf presents a disconcerting picture of the vulnerability of unrecognised refugees living outside the camps, particularly girls and women, to sexual abuse, including early marriage.

Approximately 23,000 Rohingya refugees currently live in Nayapara and Kutupalong camps south of Cox's Bazaar. Amongst the refugees, organisations working in the camps, and camp officials there are hierarchies of power; many abuses, including sexual abuse and violence are taking place, but little is said and most complaints are not aired.⁷²

In addition to the recognised refugees, according to Dr CR Abrar, Coordinator, Refugee and Migratory Movements Research Unit, Dhaka University, there are tens of thousands of unrecognised Rohingya refugees who have arrived since 1992 who receive no assistance or services from humanitarian organisations.⁷³

They do not want to be identified as refugees and are at constant risk of being repatriated. Of 200 sample families chosen for the study, more than half the total family members are between 1 and 15 years of age.⁷⁴ Children under 5 years comprise 24% of the total members:

The Rohingyas feel general sense of insecurity, specially [sic] women...The families having young/adolescent girls remain in constant pressure from the local young boys. There have been many incidents of sexual assault on the young girls.⁷⁵

⁷¹ Visit to Betila Vagrants' Home, Manikganj, 18 June 2001.

⁷² Discussion with Caroline Taylor, Country Director, MSF-Holland, 19 June 2001, Dhaka.

⁷³ Discussion with Dr Abrar, Coordinator, Refugee and Migratory Movements Research Unit, Dhaka University (12 May 1999).

⁷⁴ UBINIG *Vulnerability and Insecurity Study on Situation of Rohingya Women and Children in Cox' Bazaar and Teknaf* (Dhaka: UBINIG sponsored by Save the Children, UK, August 1998) p.10.

⁷⁵ *Ibid.*, p.15.

The UBINIG study also found that there have been several cases of rape of young girls by *mastans*. In those families where the men are engaged in fishing, they attack girls at night and threaten them with repatriation if they try to refuse. As they are not officially recognised, the Rohingyas cannot appeal to the police for protection.

Working children

Girls and boys are at risk of sexual abuse and exploitation within the workplace and, for girls in particular, while travelling to and from work. During a UNICEF retreat with adolescent girls in September 1999, girls working in the garment industry complained about sexual harassment on the way to and from the factories and proposed alternative 'safe' transport as one means to avoid this form of sexual abuse.⁷⁶

Information on sexual abuse of children within the workplace is limited. Two areas of work where sexual abuse has been documented is in domestic work and the garment industry, where the vast majority are in fact girls. Anecdotal evidence indicates that children working in the bidi industry are also at risk of sexual abuse.

Child domestic workers

Child domestic service is a large employer of rural and urban children, especially girls.⁷⁷ According to Dr Sumaiya Khair, there are two types of child domestic workers: (a) those whose parents, mainly mothers, work in a household and where they children help their mothers with household chores, and; (b) those live-in servants who live outside parental care due to their parent's poverty and whom they see rarely, if at all.⁷⁸ Shoishab Bangladesh calls those live-in servants *bandha* (bound) workers who comprise 95% of all child domestic workers and who live with their employing families.⁷⁹ The latter group of children, mainly girls, rarely receive monetary compensation for their work and are most at risk of all forms of violations of their rights, including sexual abuse.⁸⁰

The relationship between employer and the child has been described by Dr Sumaiya Khair as "arbitrary and authoritarian": employers are largely ignorant of the fact that children have rights, maltreatment of child domestic workers is common. They may legitimise such treatment because they believe they are doing the children a favour.⁸¹

⁷⁶ Adolescent Girls Retreat convened by UNICEF at ICMH, Matuail, Dhaka in September 1999.

⁷⁷ A study sponsored by UNICEF found a 3:1 ratio of girls to boys working in domestic service in Dhaka and Chittagong. (Source: Research and Computing Services Private Limited (RCS), *Final Report, Prevailing Opinion and Attitude towards Child Domestic* (Dhaka: RCS for UNICEF Bangladesh, May 1999) p.22. The sample size was 1,920 respondents for the quantitative study of middle class households in Dhaka and Chittagong and 36 respondents for the qualitative component.) According to the findings of Shoishab Bangladesh (which works with child domestic workers and their employers in Dhaka), approximately 80% of child domestic workers are girls. (Source: Shoishab Bangladesh, *A Quantitative Study on Child Domestic Workers in Dhaka Metropolitan City*, (Dhaka: Shoishab Bangladesh 1997), p.2.) Of 80 child domestic servants interviewed for Thérèse Blanchet's study, 71 were girls and 9 were boys. A report undertaken by Shoishab Bangladesh of 10,000 households in Dhaka found that almost 40% of all domestic workers are below 17 years of age. It furthermore found that the girls and boys ranged in age from 5 to 17 years, with the average age 12.5 years. (Source: Blanchet (1996), p.98.)

⁷⁸ Dr Sumaiya Khair, *Children in Domestic Service: A Concept Paper* [Dhaka: no date], p.5.

⁷⁹ Shoishab Bangladesh (1997), p.14.

⁸⁰ see also Ruth Finney Hayward (2000), p.244-246. (Regarding monetary compensation, or lack thereof, see RCS (1999), p.17, and; Blanchet (1996), p.102.

⁸¹ Khair (no date) p.10.

Poverty compels parents to engage their daughters in domestic service, but they may also perceive domestic service as a safer environment for her than working elsewhere. Many also view domestic work as good preparation for her future role as a wife and mother and the employers may assist with the dowry payment.⁸² Tragically, as they are concealed within homes, domestic work is likely where the most widespread work-related abuse of children takes place. With regard to physical abuse of child domestics, 25% of Dhaka and 14% of Chittagong housewives report they beat the children for poor performance or ill behaviour.⁸³

In addition to physical abuse, child domestic workers are vulnerable to sexual abuse. Of the 71 girls interviewed for Thérèse Blanchet's study of child domestic workers, 25% of the girls (whose average age was only 11 years) said they had been sexually abused and out of those 10% had been raped in their employer's house.⁸⁴ The perpetrators are more likely to be the following: the male employer or his son, a visiting male relative or friend, other male servants and employees.⁸⁵ The girls are likely to suffer in silence or run away until the abuse becomes public (for example, if she becomes pregnant):

Some face severe punishment and consequent dismissal when, and if, the sexual relationships become public. In such cases it is not feasible for the violated child to return to her family because of the apparent disgrace she has brought on the employer, her family and herself. She has little choice but to end up in some city slum where she has limited prospects of making a living outside of prostitution.⁸⁶

⁸² Blanchet (1996) p. 99.

⁸³ RCS (1999), p.35.

⁸⁴ Blanchet (1996), p.119.

⁸⁵ Khair (no date) p.11.

⁸⁶ Ibid, p.11.

In *Lost Innocence, Stolen Childhoods*, Thérèse Blanchet recounts the story of a child domestic worker, Rokeya aged 16 years. The following, is an excerpt from Rokeya's experiences:

... Two or three months back, the master of the house attempted to rape Rokeya. She screamed and he left her alone. When she told her mistress about the incident, the latter was very upset and had a quarrel with her husband, but she did not side with Rokeya. The next day, she accused Rokeya of being a temptress and the relationship between the women deteriorated further. The mistress now beats Rokeya, sometimes so badly that she is unable to walk. The researcher witnessed the bruises on one of her visits.

Rokeya's father came to Dhaka before the Eid festival. He was given 200 Taka, and two saris by the employer (Rokeya herself is not given any salary). Rokeya cried and told her father she was very unhappy and wanted to leave her job. The mistress of the house also spoke separately to Rokeya's father about Rokeya's so-called misbehaviour (referring to the rape attempt). Outwardly, the father sided with the employer. He even slapped his daughter in front of the latter, saying he would kill Rokeya if she did anything to spoil the family's honour.

The father had been interviewed on his own before this latter incident. He said that he could not afford to upset the employer's family as he was totally dependant on their land for his living. Besides, what could he do with Rokeya in the village? Rokeya would have to bear the beatings just as he himself did when he was a child working for the same family...

Source: Thérèse Blanchet, *Lost Innocence, Stolen Childhoods* (Dhaka: University Press Limited, 1996) p. 107.



Again, the issue of concealment, stigma and shame prevails as a constant theme associated with child sexual abuse, particularly its impact on girls.⁸⁷ The sexually abused girl is not seen as a victim, but rather as a partner in the act.⁸⁸ No wonder there is often a reluctance to make the issue public for fear of the greater consequences to the girl and her family. A member of Breaking the Silence recounted one story to the researcher:

In 1999, an employer gave a job to a father and his 11 year-old daughter. The girl was being sexually abused by the employer's brother. The girl's mother learned about the situation and tried to get her daughter out of the house. She came three times to the Radda Centre in Mirpur to speak to the social counsellor about the situation and on the final visit, she said she could not bring the girl out of the abusive environment because she was afraid the father would lose his job.

Source: discussion between Breaking the Silence members and researcher, 14 June 2001, Mohammadpur, Dhaka.

Garment workers

Outside the household, the garment industry is the largest single employer of females.⁸⁹ Approximately 400,000 females aged 14-19 years work in the garment industry, comprising 30% of all export-oriented factory workers.⁹⁰ They mainly come from rural areas and are single when they start work. In addition to the long work hours, many are sexually harassed and abused in both the workplace and on the way to and from work.⁹¹ Due to the fact that they are afraid of losing their jobs, face public shame, and likely do not know how to report such a violation, many do not make the abuse public. According to the Bangladesh Institute of Labour Studies, 84 women workers were the victims of sexual harassment in 1998 and among them, 54 were employees in the garments sector.⁹² In May 2001, a 15 year-old garment worker was gang-raped on her way home from work. Rather than face the shame of her community, she attempted suicide by setting herself on fire.⁹³ According to BNWLA which has been assisting the girl with legal aid, a rape case has been filed.⁹⁴

⁸⁷ Less information is known about the impact of sexual abuse on boys.

⁸⁸ Ain O Salish Kendra (ASK), *Sexually exploited and abused children: a qualitative assessment of their health needs and services available to them in Bangladesh* (Bangkok: United Nations Economic and Social Commission for Asia and the Pacific, 1999) p.26.

⁸⁹ Kabir (1999), p.28.

⁹⁰ Ibid.

⁹¹ According to a study of hazardous child labour in Bangladesh, girls work long hours: nearly two-thirds did 8 or more hours of 'light' work a day and a third did more than 10 hours of 'hard' work a day. See Rachel Kabir (1999) p.28.

⁹² Rahman Khan (2001) p.142.

⁹³ Dr Kishore Kumar Das, *The Independent* [Dhaka] 24 May 2001.

⁹⁴ Discussion with Advocate Salma Ali, 9 October 2001, Dhaka.

According to Dr Jana, HIV Programme Coordinator, CARE, many of the sex workers in Dhaka first worked in the garment industry before engaging in prostitution.⁹⁵ They explained to him that to get and secure their jobs they had to appease their managers and employers, often through sex. This finding is also borne out by Mahbooba Mahmood, Project Coordinator Network Project, Naripokkho who said that many former garment workers and domestic workers have become sex workers.⁹⁶ The earnings were so little and the harassment by managers and co-workers so regular that some chose street-based prostitution.

Whereas the Government Servants (Discipline and Appeal) Rules, 1984 regulate conduct and behaviour of civil servants, including teachers, there is no such rule for the private sector.⁹⁷ Moreover, it does not appear that the issue of sexual abuse (including sexual harassment) is included in any of the labour laws.⁹⁸ Nevertheless, while not specifically referring to the workplace, section 10 of the *Nari O Shishu Nirjaton Doman Act, 2000* (Suppression of Violence Against Women and Children Act, 2000) puts forth a penalty of no less than 3 years and a cash fine for any man who sexually harasses by touch the sexual organ of a child (up to 14 years of age) or a women.⁹⁹



⁹⁵ Discussion with Dr Jana, HIV Programme Coordinator, CARE, 20 June 2001, Banani, Dhaka.

⁹⁶ Discussion with Mahbooba Mahmood, Project Coordinator Network Project, Naripokkho, 24 June 2001.

⁹⁷ Discussion with Mr Abdur Rab, Deputy Secretary, Ministry of Women and Children Affairs and Mr Shamsul Arefin, Senior Assistant Secretary, Ministry of Women and Children Affairs, Bangladesh Secretariat, Dhaka, 25 June 2001.

⁹⁸ The researcher has not done an extensive review of the country's labour laws, however, from an overview and discussion with several lawyers it does not appear that there are any such provisions against sexual abuse in the workplace.

⁹⁹ It is unlikely that many cases have been filed under this Section of the Act, however, Advocates Selina Akhter and Dilruba Haque Papia, Legal Aid Unit, Ain O Salish Kendra informed the researcher that one such case has been filed under Section 10 of the Act and it is currently under investigation (Discussion at Ain O Salish Kendra, 8 October 2001, Dhaka).

Child labour in the bidi industry

Bidi making takes place in rural villages or on the outskirts of towns; some of the work is home-based and other parts are primarily factory-based. As Thérèse Blanchet found in her study, child labour is heavily predominant: one estimate puts the number of children below 16 years as 170,000 or 48% of all bidi workers.¹⁰⁰ Girls are involved up to the age of 11-12 and for boys up to the age of 13-14 years, after which they find other employment.¹⁰¹ Child helpers or *shishsho* are apprenticed to a *diver* (registered *ustad* or master) who ensures that the children meet a daily quota. Children are not allowed to leave his/her *ustad* to work under someone else unless she/he changes factory. The work is extremely poorly paid, if at all: children are often not paid for 6 months to 1 year.¹⁰²

Apart from crowded, poorly ventilated and lighted factories, children may endure beatings and harsh treatment from the *ustads*. In addition to the physical punishment, evidence suggests that *ustads* also sexually abuse their boy and girl helpers. For example, the researchers were told one story by a girl:

Sheema explained that her she was an orphan and lived with her aunt who started her working in a bidi factory. Her *ustad* was very nice to her and she trusted him, however, one day he kissed her and touched her and told her not to tell anyone. She nevertheless told her aunt who did not believe her. The *ustad* continued to treat her well at work. At first she felt afraid and ashamed but eventually she got used to it. He promised he would marry her, and they eventually began to have sex. After she began to menstruate, however, he immediately started treating her differently. He told her aunt that she was a bad girl and she should not come back to work. Her aunt got her a job in another factory, but her reputation was ruined. She considers herself *espoiledi*. She is 13 years old and her *ustad* was 30 years old and married.

Source: Thérèse Blanchet, *Child Work in the Bidi Industry* (Dhaka: study supported by UNICEF Bangladesh, March 2000), p. 76.

As indicated by the above case, the *ustad* took advantage of Sheema's young age and situation and abused her trust and innocence. He did, however, provide her a sense of security during their involvement and treated her well in the workplace.¹⁰³ Nevertheless, the negative social consequences of having a sexual relationship outside marriage were disproportionately borne by the girl and not the *ustad*.

Not just girls are at risk: as recounted in *Lost Innocence, Stolen Childhoods* one 20 year old *diver* (a registered bidi worker who sub-contracts helpers) raped his 11 year old helper one the way to work one morning and subsequently killed him.¹⁰⁴ The boy had been extremely unhappy working under this man and had told his parents that he was being sexually abused. They refused to believe him and accused him of being lazy.

¹⁰⁰ Thérèse Blanchet, *Child Work in the Bidi Industry* (Dhaka: study supported by UNICEF Bangladesh, March 2000), p.6. The research involved the administering of 440 questionnaires, FGD and 80 case histories in 6 parts of Bangladesh where the bidi industry is prevalent.

¹⁰¹ *Ibid.*, p.67.

¹⁰² *Ibid.*, p.11.

¹⁰³ For children who may not otherwise experience affection and a sense of security, engaging in a sexual act with an adult who offers them food, security and a bed may not be viewed by them as abuse or exploitation.

¹⁰⁴ Blanchet (1996), p.82.

Migrant Mothers and Fathers

A study by Dr Tasneem Siddiqui of the Refugee and Migratory Movements Research Unit, University of Dhaka, provides one of the first studies of temporary female migrants from Bangladesh. As the government does not encourage the migration of female migrant workers, the researcher notes that little attention and investment has been paid to them.¹⁰⁵ What is of particular interest from her study for the purposes of this report is the impact of the mother's temporary emigration on her children. Overall, more children experienced higher drop-out rates from school, girls had to shoulder more responsibilities at home which affected her studies, and early marriage of both girls and boys took place at an increased rate when their mothers were out of the country as temporary migrant workers.¹⁰⁶

No similar study was found the impact of migrant fathers on their families, particularly their children's vulnerability to sexual abuse and exploitation. However, given the high level of remittance earnings in Bangladesh, the issue of migrant mothers and fathers and the impact on the children with regard to the increased vulnerability to sexual abuse should be explored further.

Sexual exploitation

The following information about sexual exploitation of children on the street, in brothels, in hotels, trafficking and migration, sale of children for child prostitution and child pornography has been gleaned from the literature review and discussions with individuals working to combat such forms of child rights violations.

Girls and boys being sexually exploited on the street

While all children are at risk of sexual abuse, children living on and off the street ('street children', as they are commonly known) are particularly vulnerable to sexual abuse and exploitation. According to a 'conservative' estimate made in 1990 by DSS, there were 1.8 million street children living in urban areas in Bangladesh with a projected 3-4 million by 2000.¹⁰⁷

¹⁰⁵ Dr Tasneem Siddiqui, *Temporary International Labour Migration of Women* (Dhaka: Refugee and Migratory Movements Research Unit, University of Dhaka, August 1999).

¹⁰⁶ Ibid.

¹⁰⁷ Department of Social Services, Ministry of Social Welfare, *A Review of Existing Services Relating to Street Children* (Khulna, Barisal and Jessore) Appropriate Resources for Improving Street Children's Environment (ARISE) BGD/97/028) December 1999, p. iv.

Moreover, they are at high risk of being picked up by the police sent to a Vagrants' Homes. During a visit to a drop-in centre for girls engaged in street-based prostitution, some of the girls revealed that they had first been sexually abused in the Vagrants' Home.¹⁰⁸ Consultations held with girls and boys engaged in street-based prostitution in Dhaka also revealed that they are most fearful of being caught by the police and sent to the Vagrant's Home.¹⁰⁹

In its 1997 study, INCIDIN Bangladesh revealed that girls and boys comprise a significant number of the street-based child prostitutes in Dhaka. Many of Dhaka's street-based prostitutes are in fact girls and boys are involved, although girls are more visible than boys. A visit to the INCIDIN drop-in centre for street-based sex workers, the UNICEF-supported drop-in centre for child sex workers near Kamalpur Railway Station in Dhaka, discussions with project staff of Aparajeyo Bangladesh and with Dr Jana, HIV Programme Coordinator, CARE all bear this out. Moreover, Dr Jana explained that a lot of the children are first sexually abused within the family and when it becomes known, they are thrown out of the family and community and left to fend for themselves.¹¹⁰ For many, it is only a matter of time before they end up on the street.

The INCIDIN Bangladesh study used a population sample of 298 children (twice as many girls as boys) living in 12 localities of Dhaka City.¹¹¹ Most children interviewed were between 13 and 16 years of age, however, the average age of the girl was 14 years and for boys, it was 13 years.¹¹² The mean age of entry into commercial sexual exploitation was approximately 13 for girls and 11 years for boys. The study found that girls became sexually desirable after they reached puberty (roughly around the age of 13 years) whereas for boys, age is possibly less important for their clients.¹¹³ While not providing an explanation, the study found that the number of girls' involved in street-based 'sex work' increases up to the age of 16 years after which it falls drastically, whereas for boys, the rate of decline is not as rapid.¹¹⁴ Researchers noted that the children, especially boys, feared their identities would become known to their families.

During consultations held with girls and boys engaged in street-based prostitution in Dhaka, girls said that some of them started when they were as young as 8-10 years-old.¹¹⁵ Boys, in contrast, said they started between the ages of 10 and 12 years.¹¹⁶ Moreover, boys engaged in street-based prostitution said that they too, like the girls, feel 'noshto' (spoiled) and do experience mental trauma about what they are doing.¹¹⁷

¹⁰⁸ Visit to INCIDIN Bangladesh drop-in centre for floating street-based sex workers 17 May 2001 and discussion with several of the girls and women who frequent the drop-in centre and who are engaged in street-based sex work.

¹⁰⁹ Discussion with Rachel Kabir on findings from consultations held with children in July and August 2001, particularly boys and girls engaged in street-based prostitution, 23 September 2001, Dhaka.

¹¹⁰ Discussion with Dr Jana, HIV Programme Coordinator, CARE, 20 June 2001, Banani, Dhaka.

¹¹¹ INCIDIN (1997) p. 18.

¹¹² Ibid.

¹¹³ Ibid.

¹¹⁴ Ibid, p.19

¹¹⁵ Discussion with Rachel Kabir about the consultations held with children in July and August 2001, particularly girls and boys engaged in street-based prostitution in Dhaka, 23 September 2001, Dhaka.

¹¹⁶ Ibid.

¹¹⁷ Ibid.

Seventy percent of children interviewed for the study who become sexually exploited come from rural poor families, although 30% of the children in the study were born and raised in the slums and streets of Dhaka. Of those who migrated, close to half migrated on their own, mostly in search of jobs.¹¹⁸ Seventy percent of the children interviewed live 'on the street' whereas the remaining 30% sleep in the slums, mostly with parents or other family members, but a small minority sharing with others.¹¹⁹

Almost all the children interviewed had previous sexual experiences/abuse before being sexually exploited. All the rural migrant girls had been sexually abused prior to coming to Dhaka, however, only 31% said they had experienced penetrative sex previously.¹²⁰ With regard to the rural migrant boys, 36% said they had been sexually abused before coming to Dhaka, with almost three-quarters of that group explaining that this abuse had included penetrative anal sex. Both girls and boys identified male relatives as the most dominant of the child abusers, and mostly this happened in their own homes. Almost 90% of the children had experienced their first sexual interaction when they were between the ages of 7 and 10 years.¹²¹

A survey (including case studies and focus group discussions) of street children living in Khulna, Barisal and Jessore towns was undertaken by the Department of Social Services (DSS), Ministry of Social Welfare. Nine percent of the children (and fully 25% of the total girls interviewed) reported being the target of sexual harassment by police and musclemen.¹²² Interestingly no boys reported sexual harassment. The researchers said that the girls shared these experiences only after repeated probing and that the figures are likely much higher but due to stigma and shame, they are reluctant to share them. This is likely to be the case of boys as well.

From the INCIDIN study, it appears that gender discrimination plays a critical role with regard to the girls: as soon as she enters street life, she is considered 'fallen' and at risk of sexual abuse and exploitation. Once this information is known, it is difficult for her to find any other form of work.¹²³ With regard to boys being commercially sexually exploited on the street, over 80% said they had sex with men as out of economic compulsion.¹²⁴ This finding was confirmed during the consultation held with boys engaged in street-based prostitution in Dhaka: some boys said outside of engaging in prostitution out of economic necessity some have sex with men for recreation, whereas others may have sex with girls engaged in street-based prostitution.¹²⁵ Boys explained that male customers do not overtly hire a boy for sex, but rather use other inducements such as buying the boy clothes, feeding him, or offering him a job.¹²⁶

¹¹⁸ INCIDIN Bangladesh (1997) p. 20.

¹¹⁹ Ibid, p.22.

¹²⁰ Ibid, p.25.

¹²¹ Ibid., p.26.

¹²² Department of Social Services (1999) p. 25.

¹²³ INCIDIN (1997) p.35.

¹²⁴ Ibid, p.36.

¹²⁵ Discussion with Rachel Kabir about the findings from the consultations held with children in July and August 2001, particularly girls and boys engaged in street-based prostitution, 23 September 2001, Dhaka.

¹²⁶ Ibid.

As evidence from a study by INCIDIN Bangladesh of street-based girls in Dhaka, who are sexually exploited shows, they are regularly cheated by their clients and dalals (pimps), and are sometimes raped and gang-raped.¹²⁷ Given the extreme unequal power relations and bargaining power between the girl and her clients and high level of insecurity and lack of physical safety on the streets, this is likely to be the experience of sexually exploited girls throughout the country. A report commissioned by Concern Bangladesh revealed that a common complaint of both girls and boys being sexually exploited on the streets is forcible rape and sex without payment.¹²⁸ Moreover, children being sexually exploited in street-based sex work had to share one-fifth of their income with police and mastans (musclemen) equally.¹²⁹

A baseline study of street-based prostitutes undertaken in 1996 found that most of the women had worked in other low-paying occupations previously: garments, domestic service, hotels or restaurants.¹³⁰ CARE's peer educators mentioned that in the garment industry they worked long hours for a low salary and to secure and keep their jobs, many had to appease the recruiter; often through sex.¹³¹ The girls who switched from the garment industry to street-based sex work admitted that they face problems of police and mastans, and have to pay informal taxes to various people, however, they still earn significantly more than they did before.¹³² Some indicated that they go back to work in the garment industry when they are not able to get clients, indicating that there is movement between different types of employment.

The INCIDIN Bangladesh study also found that children engaged in street-based prostitution normally earn more than their peers in other jobs but that some times during the year, the monsoon, in particular, their earnings drop significantly.¹³³

¹²⁷ INCIDIN, (1997), p.44 and 102.

¹²⁸ READ, *Need Assessment Survey of the Disadvantaged Women and Children in the Urban Areas of Bangladesh* (Dhaka: Concern Bangladesh, March 2000), p.vi.

¹²⁹ Ibid.

¹³⁰ UNAIDS Country Programme South Asia, 'SHAKTI A Brothel and Street-Based Sex Worker Project in Bangladesh' in *Female Sex Workers' Projects in South Asia DRAFT* (New Delhi, UNAIDS, no date) p.6.

¹³¹ Ibid.

¹³² Ibid.

¹³³ INCIDIN (1997), p.75.

The following is a case study from the DSS study of children in Khulna, Barisal and Jessore:

Kulsum is a girl of 16. She lost her father at the age of twelve. She came to Khulna from Barisal with a boy whom she loved. She read up to class VIII in her village school. The love affair developed with the boy in her native village and their relation was suspected and not tolerated by the villagers. They took initiative to punish them through village 'salish' (arbitration). They were afraid and left their village. They came to Khulna city and started living in a slum, where some commercial sex workers lived. They got married in that slum. The environment was not favorable to them for living. Under this situation, Kulsum said to her husband to change this area but he didn't care rather stayed there. Just after seven days of their marriage, her husband took three unknown persons in their place of living and asked her to follow them whatever they said. She didn't like it and tried to protest them at her level best to go out of the slum. Her husband has beaten her badly for her protest and removed her cloths [sic] from the body. At the moment, one of the persons jumped on her body and raped her one by one. This happened to continue every night but Kulsum could do nothing against her husband as he always threatened her.

One night, policeman came to their slum and arrested the antisocial elements. Kulsum was one of them. When she disclosed every thing about her husband, policemen released her and arrested her husband. Kulsum tried her best to find a job for earning but failed to manage it. She has chosen the alternative option to become a prostitute...She lives in a slum during the day and spent in the parks and other areas up to late midnight...

Source: Department of Social Services, Ministry of Social Welfare, *A Review of Existing Services Relating to Street Children (Khulna, Barisal and Jessore)* Appropriate Resources for Improving Street Children's Environment (ARISE) BGD/97/028) December 1999, Appendix A, p. 67.



Girls engaged in hotel-based prostitution

Findings from rapid assessments of hotel-based sex work taking place in Dhaka, Chittagong and Barisal, Comilla and Rajshahi suggest a low prevalence of girls under 18 years of age engaged in hotel-based prostitution.¹³⁴ Findings from Dhaka indicate that the average age of the women is 21 years, with many starting after they reached the age of 18 years.¹³⁵ It is likely, however, that a minority of girls 16-18 years of age are involved. Those engaged in hotel-based prostitution earn substantially more than do street and brothel-based prostitutes (for some, up to Taka 10,000/month). Like girls engaged in other types of prostitution, they keep it hidden from their families and their biggest fear is that their secret will be discovered. The research findings indicate that there is no link between hotel-based and brothel-based sex work.¹³⁶

Girls being sexually exploited in brothels

Sexual abuse and exploitation of children inside the brothel environment is widespread.¹³⁷ Despite laws and practices ostensibly meant to prevent the entry of girls into the profession, brothel-based commercial sexual exploitation is extensive.¹³⁸ Not only are many girls engaged as prostitutes, but also many have been sold and are kept in a highly exploitative bonded labour situation until they earn their release or run away. The age, physical and mental immaturity of the girls puts them at greater risk of abuse and health risks than older sex workers. The girls' families may accept their earnings, but they do not always welcome the girls to their homes.

According to a DSS survey report on sex workers and their children in four brothel communities, three-quarters of sex workers are between 15 and 29 years of age.¹³⁹ According to a recent study supported by Save the Children Sweden, more than 1/3 and 1/2 the sex workers at Daulotdia and Kandapara brothels, respectively are girls under 18 years of age.¹⁴⁰ Mothers themselves view their daughters as assets and will introduce their daughters to the business at an early age. In 92 case histories recorded for a study undertaken in Daulotdia brothel, Rajbari District in the early 1990s it was found that the average age of entry of girls into prostitution was 13.5 years old.¹⁴¹

¹³⁴ Discussion with Pam Baatsen, Country Director, Family Health International, and Mahbubul Alam, Executive Director, Sristi, 2 October 2001, Dhaka. There is no evidence to suggest that boys or men are engaged in hotel-based prostitution.

¹³⁵ Ibid.

¹³⁶ Ibid.

¹³⁷ From her research, Thérèse Blanchet argues, however, that sex is heavily regulated inside the brothel and that children living in them are well aware of it, unlike the majority of their counterparts who do not. With respect to penetrative sex, she mentions it is not in the interest of those engaged in prostitution for children living in the brothel to be having sex with prospective clients. She therefore believes that there is probably less sexual abuse (especially penetrative sex) taking place inside the brothel than outside. (Discussion with Thérèse Blanchet, 17 September 2001).

¹³⁸ In addition to the 15 registered brothels, many residential hotels and rented houses function as 'brothels'. Street-based sex workers may be taken to them by their clients and managers of such hotels and houses may be in collusion with dalals to supply their clients with sex workers.

¹³⁹ Department of Social Services, Ministry of Social Welfare, *A Survey Report on the Socially Disadvantaged Women (SDW) and their Children living in the Brothel Communities of Narayanganj, Mymensingh, Jessore and Daulotdia Ghat of Rajbari District Executive Summary* (Dhaka: Ministry of Social Welfare, January 2000) p.4.

¹⁴⁰ Uddin, Sultana and Mahmud, (January 2001 Draft) p.27. The methodology included a census survey of all the households in the two brothels and structured interviews with the head/leading member of the household; focus group discussions (FGD) with children and mothers; individual (semi-structured) interviews with children, and; discussion groups with children and NGO staff.

¹⁴¹ Blanchet (1996), p.124.

Girls' low knowledge of sexually transmitted infections (STIs), HIV/AIDS, physical vulnerability and lack of empowerment puts them at greater risk of contracting infections and disease.¹⁴² Moreover, other health risks to the girl are the abuse and possible addition to alcohol, tobacco and various other drugs.¹⁴³ The most inexperienced girls are also at greater risk of sexual exploitation from mastans and the police, who often do not pay them for their services. Being less physically developed than the women, most find sex painful. In addition to the health risks associated with unsafe sex, some girls take the steroid 'Betamethasone' which is harmful to their health, but which causes fluid retention which makes them look voluptuous.

Out of 92 case histories, Blanchet noted that 1/2 the girls had been bought or directly captured from outside, 1/4 had joined on their own accord, and 1/4 were 'daughters' of prostitutes.¹⁴⁴ Of these 'daughters', almost half were adopted daughters bought from *chukris* and a little over half were biological daughters.¹⁴⁵ Those that buy girls, introduce them to the trade and maintain them (albeit while taking their earnings) are called *sardanis* (madams) and the girls who are bonded to them are called *chukris*.¹⁴⁶ Lack of freedom and sexual and economic exploitation are among the main concerns of *chukris*. However, solitary confinement, physical torture and a reduced diet are imposed on them, particularly for those that try to resist. The period of bonded labour varies, after which the girl buys her independence (which normally does not mean leaving the brothel or prostitution), run away with a lover, or run away to another brothel to work on her own.

While families (including parents) may accept the income their daughters send home, they are stigmatised by the rest of society and are rarely accepted back to their family home.¹⁴⁷ For that reason, those that go back are careful not to reveal their profession: some tell their family they are working in the garment industry or other forms of employment.

Among brothel-based prostitutes it is not uncommon for those making more money to pay guardians (which could include family members) who live outside the brothel community to look after their children. One woman in Fultala Brothel, Khulna said she paid her cousin 500 Taka/month to look after her two children.¹⁴⁸ In Daulotdia brothel, however, this is less common as the women are not earning enough to send their children away.¹⁴⁹ The children's identity is often concealed to other children and the communities where they live and attend school to avoid the stigma of being identified as a child of a prostitute and face discrimination, including pressure to withdraw from schools. Nevertheless, the identity of many children is eventually found out, and quite often the children return to their mothers in the brothels.

¹⁴² Monira Sultana, 'A Passage to the rights of brothel children,' in *Observer Magazine* [Dhaka] 1 September 2000.

¹⁴³ Discussion with Rachel Kabir on findings from consultations held with boys and girls living and working in the brothel held in July and August, 24 September 2001, Dhaka.

¹⁴⁴ Blanchet (1996), p.124.

¹⁴⁵ Ibid. Of note, it is common in the brothel community for *chukris* to sell their daughters to older women engaged in prostitution. Not only may this transaction help *chukris* purchase their freedom from *sardanis* faster, but also the adopted daughter will be an asset for older prostitutes who may be planning for their future of reduced earnings.

¹⁴⁶ Discussion with Rachel Kabir, 23 September 2001, Dhaka on her findings from consultations held with girls working in Daulotdia brothel in July and August 2001.

¹⁴⁷ Monira Sultana, 'A Passage to the rights of brothel children,' in *Observer Magazine* [Dhaka] 1 September 2000.

¹⁴⁸ Discussion with resident at Fultala Brothel, Khulna, 4 June 2001.

¹⁴⁹ Discussion with Sultan Mahmud, Country Director, Save the Children Australia, 11 June 2001, Dhaka.

Trafficking and migration

There are a large number of studies on the prevalence of trafficking (mainly cross-border) of children and women in Bangladesh.

Reports indicate that trafficking is very closely linked to migration and changing trends require changing strategies to tackle the problem. As reports of the UN Special Rapporteur on Violence Against Women, Ms Radhika Coomaraswamy,¹⁵⁰ attest, many women and children are leaving their home in search of jobs and better prospects elsewhere.

According to the Special Rapporteur, the primary goal of traffickers in women and girls into India is forced prostitution.¹⁵¹ What is also known is that trafficking and migration are often indistinguishable: many children (and women) eager to escape poverty, discrimination and/or abuse at home will leave their villages in search of better prospects elsewhere. They may, in fact, be willing and active participants in their trafficking because they are going with someone who has promised them a better job and/or life either inside Bangladesh (ie a large city) or in another country. It is only at the end of the process, when they have reached their destination, that they will find out if they have been deceived. This aspect of migration is very important to bear in mind, particularly as fewer victims are being kidnapped and/or abducted.¹⁵² Rapid and sustained rural-urban migration and overseas labour migration are undisputed features of Bangladesh's economy. As pointed out by the Special Rapporteur, this dimension also makes it extremely difficult to detect and/or control trafficking.¹⁵³ Moreover, given that many Bangladeshi families have relatives across the border, in neighbouring India, it is not uncommon that many people come and go across the border, even without papers.

What is of concern, however, is that in the aim to prevent trafficking, the rights of women and children to freedom of movement have been drastically curtailed by South Asian countries, including Bangladesh and Nepal. According to recent laws, low-skilled female workers wishing to go to the Middle East for domestic service have been prohibited from doing so.¹⁵⁴ Moreover, prohibiting them from migrating abroad does not mean they won't end up becoming victims of internal trafficking.

¹⁵⁰ See Economic and Social Council, Report of the Special Rapporteur on Violence Against Women, its causes and consequences, Ms Radhika Coomaraswamy, in accordance with Commission on Human Rights Resolution 2000/45 Addendum, Mission to Bangladesh, Nepal and India on the issue of trafficking of women and girls (28 October– 15 November 2000) par. 11, E/CN.4/2001/73/Add.2).

¹⁵¹ par.16, E/CN.4/2001/73/Add.2.

¹⁵² Ibid; see also report of Sanghera (March 2000) p.7, discussion with Dr Jana, HIV Programme Coordinator, CARE Bangladesh, 20 June 2001, and; discussion with Ruben Korevaar, Programme Officer, IOM, Dhaka 17 June 2001.

¹⁵³ par. 20, E/CN.4/2001/73/Add.2.

¹⁵⁴ See The Emigration Ordinance, 1982 in Annex I. Also refer to Dr Tasneem Siddiqui, *Temporary International Labour Migration of Women* (Dhaka: Refugee and Migratory Movements Research Unit, University of Dhaka, August 1999), which explains that as per the Ordinance, only persons with valid documents may emigrate. It furthermore gives the government authority to declare certain categories of emigrating persons to be unlawful. In November 1997, the government reimposed the ban on migration of unskilled women, which was implemented as a protective measure (no woman was allowed employment as an industrial worker, house maid, nurse or any other job overseas, only 'highly technical professional women' were allowed to emigrate for employment purposes). Various groups, including the Association of International Recruiting Agencies, NGOs and others opposed the ban as they deemed it to be unconstitutional and discriminatory and they argued it would contribute to illegal trafficking of women. Following consultation amongst government ministries, the ban was subsequently lifted on all categories of women workers except domestic aids except those whose employer belonged to certain groups of persons (ie Bangladesh embassy staff). However, the undocumented migration of women continues, and Dr Siddiqui argues that the fact that only licensed recruiting agencies are allowed to process papers of migrant workers has contributed to this situation.

As Dr Jyoti Sanghera also raises in her study of trafficking in women and children in South Asia:

[i]ncreasingly fewer victims of trafficking are in fact being kidnapped or abducted; an overwhelming majority are actually led away under deception and/or false promises and are therefore participants in their own trafficking during the first leg of the process which includes recruitment and transportation.¹⁵⁵

One also notes that the issue of trafficking is of priority to South Asian nations as a whole: a *SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution* has been drafted, and is awaiting the next SAARC meeting for signature.¹⁵⁶

Trafficking of children is also an area of concern of the Government of Bangladesh and is given attention in the National Plan of Action for Children 1997-2002 which states:

This is both a law enforcement and a socio-economic issue involving multiple levels and types of vigilance. In addition, trafficking of children takes place in response to demand. Additional causes, particularly in case of girl children, can be related to discriminatory laws and practices such as child marriage, polygamy, dowry, and the low social value accorded to women.¹⁵⁷

Cross-border trafficking and migration

No one knows definitively how many children are trafficked internally and out of the country each year. To determine the number and extent of internal and cross-border trafficking, the International Organisation for Migration (IOM) commissioned a mapping study from print media of missing, kidnapped and trafficked children and women between 1990 and 1999. Geographic Information System (GIS) was used to compose maps indicating routes of trafficking and place of origin and incidents of trafficked, kidnapped and missing children and women.¹⁵⁸ Media reports alone cannot present the full picture of trafficking (we only know that someone has been trafficked if they are found during the process and/or manage to escape). Nevertheless, it is interesting to note that according to its findings from media reports, 1,693 boys and 1,714 girls up to 16 years of age were trafficked between 1990 and 1999.¹⁵⁹

¹⁵⁵ Dr Jyoti Sanghera, *Trafficking of Women and Children in South Asia: Taking Stock and Moving Ahead, A Review of Anti-Trafficking Initiatives in Nepal, Bangladesh and India*, (Kathmandu: UNICEF Regional Office South Asia and Save the Children Alliance South and Central Asia, March 2000) p.7.

¹⁵⁶ United Nations Special Rapporteur on Violence Against Women, Ms Radhika Coomaraswamy has raised important and serious concerns about the draft *SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution*. In particular, she notes it is not in conformity with international human rights instruments, including the *UN Convention on Transnational Organised Crime*. It moreover does not distinguish between women and children which can be denigrating to both as interventions and recommendations are not necessarily the same for children as they are for women. (Source: see par. 11, E/CN.4/2001/73/Add.2).

¹⁵⁷ Ministry of Women and Children Affairs, *National Plan of Action for Children* (1999), p.108.

¹⁵⁸ Ishrat Shamim, *Mapping of Missing, Kidnapped and Trafficked Children and Women: Bangladesh Perspective* (Dhaka: International Organisation for Migration, 2001).

¹⁵⁹ *Ibid.*, p.33.

From 1997, the number of cases decreased, due in part to greater attention and priority to trafficking by NGO, INGO and government efforts. Dr Ishrat Shamim, Farah Kabir and Thérèse Blanchet who have studied the issue caution, however, that sensitisation and trainings with BDR, police, and others along the border may have led to a decrease in young children being trafficked but that older children, particularly adolescent girls who are often socially and legally viewed as being 'women' are likely still being trafficked in large numbers.¹⁶⁰

With regards to the rescue of trafficked children, most of this takes place after the children reached the destination country, primarily India. Of the total 306 children rescued from within Bangladesh, 234 were rescued by police, 51 by local people and 21 from the Bangladesh Rifles (BDR).¹⁶¹ According to the IOM report, most cases of missing children were not reported to law enforcement authorities so in reality the number is likely higher. Girls who had been trafficked and living in BNWLA's shelter home in Dhaka felt that the actual numbers would be much higher and that girls, especially village girls, are most at risk of being trafficked.¹⁶² They added that vulnerable districts include Barisal and Bagherhat and that children are also trafficked in boats and trawlers.¹⁶³

While it is notable that attention and interest has been paid to this serious violation of children's rights, it is of concern that by making people aware of the dangers of trafficking, some communities have become so distrustful of strangers that they have taken the law into their own hands when they suspect a trafficker is in their midst. Dr Jyoti Sanghera noted that two salesmen were lynched to death on suspicion of being traffickers.¹⁶⁴ In June 1997, the Daily Ittefaq reported that a mob beat and burned to death alleged kidnappers.¹⁶⁵

¹⁶⁰ Discussion with Thérèse Blanchet, 24 September 2001, Dhaka; and discussion with Farah Kabir and Professor Ishrat Shamim, 3 October 2001, Dhaka.

¹⁶¹ Ishrat Shamim, (2001) p.42.

¹⁶² Discussion with Rachel Kabir about consultations held children in July and August 2001, particularly the one held with girls who had been trafficked at the BNWLA shelter home, 23 September 2001, Dhaka.

¹⁶³ Ibid.

¹⁶⁴ Sanghera, (2000) p.37.

¹⁶⁵ in Ishrat Shamim (2001) p.28.

Economic factors such as unemployment and lack of viable skills; social and cultural factors which include gender discrimination and violence, sexual abuse, and; discriminatory and inappropriate laws, impunity, and corruption create an environment where trafficking takes place. Girls in the children's consultations who had been trafficked and rescued and living in a shelter home, when asked about the root causes of trafficking, agreed with the issue of gender discrimination, explaining that older girls are underfed, unhappy and therefore are vulnerable to trafficking.¹⁶⁶ Their overall comments suggest that home is not a safe place to be, particularly if they have a stepmother or stepfather.¹⁶⁷ Whereas the girls said stepmothers may sell you to a trafficker, the stepfather may sexually abuse you.¹⁶⁸ They added that taking legal action against the trafficker is difficult in part because families that do try to file cases may be threatened with more severe consequences (for example, acid throwing).¹⁶⁹

Thérèse Blanchet's trafficking research (December 2000– February 2002) in 4 different districts (including Satkhira, Gazipur and Narayanganj) has likewise found that some of the traffickers are, in fact, family members. She also explained that giving a child away for a certain time in exchange for financial compensation is a normal practice for poor families. She shared one case study which demonstrates the difficulty in reporting cases: the parents of one boy sent him off with a woman more than 6 years ago with the understanding that they would receive money each month.¹⁷⁰ Only because the money was not forthcoming did they report the case to the police.¹⁷¹

What is known from children and women who have been rescued and/or interviewed in other countries is that they were trafficked for a variety of purposes, including forced prostitution, domestic service, labour, marriage and work as camel jockeys (this is only for young boys). UBINIG, a Dhaka-based NGO found in its study of selected border villages that the dalal (trafficker) is known in Shanpur village (where many girls have married Indian men) as being able to arrange dowry-free marriages for girls of poor families.¹⁷² Professor Ishrat Shamim and Farah Kabir, in their 1998 study of child trafficking also found that Indian recruiters come to find prospective brides.¹⁷³ The Association for Community Development (ACD) in its sample of 500 rural families in Shibganj thana, Chapainawabganj district found that many girls were allured as brides for men in India through the assistance of a *ghatak* (or matchmaker).¹⁷⁴ ACD found from its research that there is a demand from Muslim men in Agra and Ferozabad, in India for girls from Bangladesh because they cannot afford the high bride price of local girls. Families in Bangladesh feel the trafficker is helping them avoid debt through dowry payments.¹⁷⁵

¹⁶⁶ Discussion with Rachel Kabir about consultations held with children in July and August 2001, 23 September 2001, Dhaka.

¹⁶⁷ Ibid.

¹⁶⁸ Ibid.

¹⁶⁹ Ibid.

¹⁷⁰ Discussion with Thérèse Blanchet, Dhaka, 24 September 2001.

¹⁷¹ Ibid.

¹⁷² UBINIG, *Pamphlet 2, Fact Finding Missions on Trafficking in Women and Children from Bangladesh to India and Pakistan* (Dhaka: UBINIG, 1999) p.9.

¹⁷³ Professor Ishrat Shamim and Farah Kabir, *Child Trafficking: The Underlying Dynamics*, (Dhaka: Centre for Women and Children Studies, 5 January 1998).

¹⁷⁴ Association for Community Development, *International Migration of Women: A Study on Causes and Consequences* (Rajshahi: ACD, 1995) p.13.

¹⁷⁵ Ibid., p.17.

As found in the IOM-commissioned survey, agents recruit during lean period before harvest or seek out families in financial difficulties.¹⁷⁶ This has likewise been found by Dr Ishrat Shamim and Farah Kabir, who found that certain times of year are more popular for trafficking: June - August when food is scarce, September to October -during festival months, and pre-harvest times when recruiting is easiest because poverty is at its most acute.¹⁷⁷

The Bangladesh National Women Lawyers Association (BNWLA), in its study of 51 missing and rescued victims of trafficking from 10 villages in the thanas of Sharsa, Teknaf and Patgram between October 1998 and June 1999, learned from those 18 rescued that they were mainly deceived through job offers, with offers of marriage being most common among girls aged 11-16 years.¹⁷⁸

In 1997, UBINIG undertook three fact-finding missions in border-belt areas and in the destination points of Calcutta, Agra and New Delhi, India. Association for Community Development (ACD), based in Rajshahi, similarly undertook a study of two unions in a border belt area in 1999.¹⁷⁹ What both studies reveal is that the smuggling and trafficking of goods and persons involves many people from all ranks of society and is a key source of income for many. The following story provides a good illustration:



¹⁷⁶ Ishrat Shamim (2001) p.4.

¹⁷⁷ Professor Ishrat Shamim and Farah Kabir, (1998) p.17.

¹⁷⁸ BNWLA, *Causes and Consequences of Children and Women Trafficking: A Socio-Economic Study on Ten Villages of Bangladesh* (Dhaka: BNWLA with support of UNICEF, October 1998– June 1999), p.44-46.

¹⁷⁹ Association for Community Development (ACD), *Socio-cultural study of Border Belt Area* (Rajshahi: ACD, 1999). The study was of two unions, Binodpur and Monakosha and the methodology included focus group discussions with 57 respondents, in-depth interviews with 15 respondents, and observation.

As Night Falls, Guests Start Arriving Border Villagers Host Traffickers

Almost every house along the Benapole border has provisions for accommodating a number of paying guests. It may be a hut or an attractive brick structure, while inside, the owners proudly display rest areas including temporary beds, cooking utensils, glasses, bowls -an indication of how many guests they can put up at a time and on short notice. The house owners may be elderly men or women. They cater to hundreds of people traveling to India without passport. In the darkness, the clients are simply led through the border and into India, a few yards away while in the distance Bangladesh border forces personnel guard the border area in their makeshift outposts. Locally the travelers are known as *dhurs*.

During the day, these 'houses' near the border are empty and look abandoned. But as night falls these rural houses bubble with life. Women light up their cookers to prepare meals for the 'guests' who suddenly arrive and keep on arriving throughout the night. They mingle with the occupants, have food and then wait for the agents to turn up. A *ghat* is a designated point from where the crossing into India takes place. It is owned by a member of the syndicate that is in charge of the operation in this village. From the Benapole customs and immigration checkpoint up to the Isamati river, about two kilometers to the west, *dhurs* make a substantial contribution to the economy of this area known as Geatipara. Each *dhur* passing through a *ghat* ends up paying up to Tk.500 for the service.

In villages around Jessore, illegal travel agents operate openly. Once the deal is made through some contacts, the procedure is simply and easy. The agents guide the clients to a house near one of the numerous *ghats* of the area. Then two to three agents turn up at a convenient time, collect the fees and then lead them across the border.

"These days less people are using this particular border because the Bangladesh border forces have set up a special team to crack down on the trade", said Masud Ahmed, a local businessman, adding, "Only a few days back you would find it difficult to walk on the roads due to the rush."

"There are two types of *dhurs*," said a senior police in Jessore. "Those who are poor and cannot afford to obtain a passport and others who are victims of the women and child trafficking syndicate." He said that traditionally poor peasants and religious groups have been traveling to and from India without papers and the matter used to be ignored, "After visiting their relatives and shrines as far as Ajmir, these people would return home to Bangladesh. But during the *Puja* festival, as usual, thousands were crossing without papers and at one point we realized that the gangs of child and women traffickers were using this golden opportunity," he added. The Superintendent of Police, Jessore, expressed his concern over child and women trafficking. He said, "For the villagers along the border, the trade is so lucrative that unless their economic conditions improves, it is very difficult to stop the trafficking business. We are nonetheless holding regular meetings with the villagers along the border to create public opinion against trafficking in women and children..."

Source: *The Daily Star* [Dhaka], 21 December 1997 in Shamim, Ishrat, *Mapping of Missing, Kidnapped and Trafficked Children and Women: Bangladesh Perspective* (Dhaka: International Organisation for Migration, no date) p.38.

The above case study shows the link between the villagers, trafficking and illegal migration.

Thérèse Blanchet has found from her study of trafficking in 4 locations collusion between the traffickers and the Bangladesh Rifles (BDR) who are responsible for the territory between 0 and 5 km from the border. The BDR employ people to collect money from illegal migrants and/or traffickers.¹⁸⁰ When illegal migrants are caught, it is not usually by the BDR but by other law enforcement officials. UBINIG and BNWLA have found that if the trafficker is arrested, a case is usually filed against that person under the Bangladesh Passport Order, 1973, and are charged a nominal amount as a fine to get out of jail.¹⁸¹ While conducting a secondary investigation of trafficking cases in Satkhira District in April 1996, BNWLA found that the trafficker of 27 rescued men, women and children had been fined Taka 100 for violating Section 11 (c) of the Bangladesh Passport Order, 1973.¹⁸²

From their discussions with girls and women who were victims of trafficking and who ended up in Calcutta, Agra and New Delhi, the UBINIG researchers found that for most, Calcutta was the first entry point to India and from there are trafficked to other parts of India and other countries. Many Bangladeshi girls and women are sold in brothels in big cities in India because they have a lower monetary value than girls from other countries, it doesn't cost much to collect them and there is a demand for them.¹⁸³

Lots of Bangladeshis and Burmese families are also in Karachi (near where fish processing is carried out, an area in which Bangladeshis are skilled). According to the findings of the UN Special Rapporteur on Violence Against Women, Pakistan's strict zina laws which pertain to sex outside marriage encourages marriage as a method of trafficking recruitment: traffickers of their partners often marry their victims to protect themselves from prosecution.¹⁸⁴ Ms Coomaraswamy has found that 2,500 Bangladeshi women and children are being detained in Pakistan under the Hudood Ordinances, charged with illegal entry and for having sex outside marriage.¹⁸⁵

While the vast majority of trafficking takes place overland, there are between 18 and 20 common border crossings used for both legitimate and illegal purposes, there are some trafficking cases which start from Zia International Airport. Bangladesh National Women Lawyers Association has noted from its study that those being trafficked by air have work permits or false family visas to travel to countries like the Middle East.¹⁸⁶

¹⁸⁰ Discussion with Thérèse Blanchet, Dhaka, 24 September 2001.

¹⁸¹ UBINIG, (1999) p. 3 and BNWLA, *Movement against Flesh Trade* (Dhaka: BNWLA, August 1996), pp 4-5.

¹⁸² BNWLA, (August 1996), pp 4-5.

¹⁸³ UBINIG, (1999), p.11.

¹⁸⁴ Ishrat Shamim (2001) p.12.

¹⁸⁵ Ibid.

¹⁸⁶ BNWLA, (UNICEF, October 1998-June 1999) p. 65.

Migration for Prostitution

CARE Bangladesh has been supporting some research in a trafficking-prone district in South West Bangladesh. The research team interviewed 24 families, of whom 15-16 said that members of their families (including adolescent girls) had temporarily migrated to India to become engaged in prostitution.¹⁸⁷ Poverty of the families had led to the decision taken for some of the girls and women to go to Bombay and Calcutta to work in prostitution. It is unknown to what extent the girls and women were provided with a choice as to whether or not they would do this for their family's survival. As stated by Thérèse Blanchet provides the context for these findings in her statement, "the right to decide one's own life does not exist here [in Bangladesh]" and the money earned by the girls and women would likely earn them greater value and respect in a poverty-stricken household.¹⁸⁸

Penalisation of trafficked victims

In trying to combat illegal migration and trafficking, the victims usually end up more criminalised than the traffickers. As an example from Pakistan demonstrates, the victims are likely to end up in jail:

30 Bangladeshi women, children released from Karachi Jail

Thirty Bangladeshi and Burmese origin Muslim women and children detained on allegation of illegal entry four years ago were released from detention from Karachi jail recently. A division bench of the Sindh High Court issued the release order for the 13 women and their 17 children who earlier were sent to Edhi Centre (Apen Ghar) from Karachi Juvenile Jail. The court made the order following petitions on behalf of the women by Zia Ahmed Awan, President of Lawyers for Human Rights and Legal Rights (LHRLA) in Pakistan.

Source: *The Bangladesh Observer*, 1 April 1997 in Shamim, Ishrat, *Mapping of Missing, Kidnapped and Trafficked Children and Women: Bangladesh Perspective* (Dhaka: International Organisation for Migration, no date) p.63.

Once outside the country, fear of deportation and/or arrest keeps trafficked victims from speaking out. For girls and women who end up engaged in prostitution, the legitimate fear that their families and community will not accept them work keeps them from escaping and/or leaving the profession.¹⁸⁹

With regard to the recovery and reintegration of trafficked children and women, a Human Rights Watch study of Nepali girls and women trafficked to India for sex work found that most did not wish to be rescued because they had nothing to return to, feared the contempt and rejection of family members and had no resources to make a new life for themselves.¹⁹⁰ This is also likely to be the case for many Bangladeshi girls and women. Rescued girls living in a NGO shelter home agreed that they fear rejection and judgement by their families if they attempt to go home.¹⁹¹ Thérèse Blanchet recounted the story of one girl who was trafficked to the Middle East and ended up engaged in prostitution. She returned pregnant to her village, but made up a story that she got married while she was gone.¹⁹²

¹⁸⁷ Discussion with Dr Jana, HIV Programme Coordinator, CARE Bangladesh regarding preliminary findings from CARE research in SW Bangladesh, 20 June 2001.

¹⁸⁸ Discussion with Thérèse Blanchet, Dhaka, 12 September 2001.

¹⁸⁹ Ishrat Shamim, (2001) p.73 and 74.

¹⁹⁰ Human Rights Watch, *Rape for Profit* (New York: Human Rights Watch, 1995) p. 50.

¹⁹¹ Discussion with Rachel Kabir about consultations held with children in July and August 2001, particularly the group of trafficked girls at the BNWLA shelter home, 23 September 2001, Dhaka.

Child Sexual Abuse and Exploitation of trafficked and migrant girls

The link between sexual abuse and exploitation of trafficked and migrant girls is important. Cases have been found where girls have migrated and found jobs or trafficked and placed in jobs, been sexually abused in the workplace, then chosen to engage in prostitution where they are able to make more money.¹⁹³ The following is a good example:

Amiron (14-15 years old), daughter of unemployed parents from the village Lakshanpur in Sarsa, appeared to be well off. At first she was reluctant to talk or share her experience. But afterwards she revealed that she went to Bombay. She crossed the border through Sikarpur and then traveled to Bombay. She lived for a fortnight in her cousin's house and then found a job in a house for Rs. 1000. The man in that house sexually abused her and this became a regular practice. Later she got used to it and somehow started to sell her body for money. She found that the wages were very good. She came to visit her home in Bangladesh. She will soon return to Bombay.

Source: Professor Ishrat Shamim and Farah Kabir, *Child Trafficking: The Underlying Dynamics*, 15 January 1998 Centre for Women and Children Studies Dhaka, p.12.

Vulnerability of Rohingya refugees

According to a 1999 Images Asia report, many Rohingya women and children have been trafficked from Bangladesh to Pakistan, the Karachi area in particular where most of the Rohingya settlements are located.¹⁹⁴

In 1997, Rahima paid a trafficker to be taken over to Pakistan. "I was in a group of 60 people. We travelled through Amritsar. When we crossed the border to Pakistan at night, the Pakistani border rangers arrested us. They detained us for 2 days and pushed us back to India. We tried to cross again but this time we were arrested by the Indian border guards. They took all the young girls and raped them. There were about 10 of them in our group, aged 12 or 13. They kept them in a place under guard. After two hours they were released and sent back to their families. They looked almost dead. Some were unconscious. They were bleeding and wounded. They couldn't walk and we had to carry them to continue our way.

Source: Images Asia, *Trafficked from Hell to Hades The Plight of Rohingya women from Burma trafficked in Pakistan*, November 1999, p. 13.

¹⁹² Discussion with Thérèse Blanchet, Dhaka, 24 September 2001.

¹⁹³ Ishrat Shamim, (2001) p.73.

¹⁹⁴ Images Asia, *Trafficked from Hell to Hades The plight of Rohingya women from Burma trafficked in Pakistan* (Images Asia, November 1999). According to a report of the Sindh Police, in 1993, the number of Burmese (all Rohingyas) living in and around Karachi was 200,000 and increase of 200% from the previous survey of 1988, p.13.

Just as they were in Bangladesh, the Rohingyas are undocumented and face constant threat of arrest and imprisonment as illegal immigrants after they arrive in Pakistan. While in detention, they are at risk of sexual and physical abuse.

With the exception of the UBINIG and Images Asia study, little is documented about the vulnerability to trafficking of Rohingya women and children. Moreover, there appears to be no system of protection and monitoring to tackle the problem given their undocumented status in Bangladesh.

Internal trafficking and migration

Most of the trafficking studies focus on the cross-border trade in children and women. Just as complicated as it is to distinguish between cross-border trafficking and migration, likewise it is difficult to distinguish between rural-urban migration and internal trafficking. The INCIDIN Bangladesh study of children engaged in street-based prostitution in Dhaka found that 21% of the migrant girls had been internally trafficked to Dhaka and been sold to pimps.¹⁹⁵

One feature of internal migration is that frequently it is men come to the big cities leaving their wives and children behind in village. In the absence of their wives, many visit brothels to satisfy their sexual desires, thereby fueling the demand for prostitutes, including children who are being sexually exploited.¹⁹⁶



¹⁹⁵ INCIDIN (1997) p.33.

¹⁹⁶ Professor Ishrat Shamim and Farah Kabir, (1998) p.9.

Sale of children for sexual exploitation

As explained above, girls are sold for commercial sexual exploitation: to *sardanis* for sex work, and to *dalals* who use them as street-based sex workers or who subsequently sell them to brothels. In the brothels, the period of bondage to a *sardani* varies. According to Thérèse Blanchet's study of Daulotdia brothel, the average period of bondage is getting shorter: for girls and women under 20 years the average period was 1.76 years, whereas for women who were now over 31 years, at the time it had been 4.56 years.¹⁹⁷ The reasons for this are unknown: it is likely because there is now greater sensitivity about bonded labour which is leading to a reduction in its duration.

Kalpana is a girl of 16. She is now parentless. She read up to class II in a school in a village. She lost her parents when she was ten and came to Khulna city from Barisal with her paternal auntie. She is now living at Rupsha slum with her auntie.

Kalpana used to help her auntie in homework. Her auntie later managed to get a job for Kalpana as a household help while she was at thirteen. She worked there for two years. When her employer was transferred to other city she stayed back and returned to her auntie. She didn't accept her and misbehaved. One day her auntie decided to sell Kalpana to an old man who lived nearby their shanty in exchange of some money. Kalpana was then forced to have sex with unknown persons. Still she was living in that slum as she had no other alternative for earning and living. At the beginning she didn't like it but that old man forced her to do this and sometimes threatened. She used to move around the parks and other areas of the city. She earns about TK 80-90 a day. She is now regular in her sex trade...

Source: Department of Social Services, Ministry of Social Welfare, *A Review of Existing Services Relating to Street Children (Khulna, Barisal and Jessore)* Appropriate Resources for Improving Street Children's Environment (ARISE) BGD/97/028) December 1999, Appendix A, p. 63.

Child pornography

The researcher was unable to locate any concrete information about the manufacture and/or distribution of child pornography in Bangladesh and/or about Bangladeshi children being used in the production of pornography.

¹⁹⁷ Blanchet (1996), p.141.

Laws and legislation

While laws exist to prevent child marriage, child prostitution, sale of children for prostitution, slavery, kidnapping and abduction for prostitution, trafficking (both internal and cross-border) and some forms of child sexual abuse, many are inconsistent with the CRC and other international human rights instruments.¹⁹⁸ Moreover, legal loopholes and corrupt practices often allow those who sexually abuse and/or exploit children to avoid any punishment.

In early 2000, the *Nari O Shishu Nirjaton Domon Act, 2000* (Suppression of Violence Against Women and Children Act, 2000) was passed. It metes out harsh punishments for those convicted of committing violent crimes, including some forms of child sexual abuse and exploitation against children (under 14 years of age) and women of any age. An unofficial translation is attached at Annex 1.

The law is not fully in accord with the CRC and other international human rights instruments which the Government of Bangladesh has ratified. Nevertheless it is important to recognise that this law goes further than previous ones to stop violence against children and women, including the provision of harsh penalties for trafficking (including sale and purchase of children and women), rape, dowry-related death, and abduction (see sections 5 - 11). Of particular note, section 10 pertains to 'illegally touching the sex organ of a women or child', which is included in most definitions of 'sexual abuse.' Moreover, the news media (at section 14) is forbidden from disclosing any victims' identity, including his or her name and address.



¹⁹⁸ See Annex 1 for the following laws and relevant sections of the Penal Code of 1860: The Suppression of Immoral Traffic Act, 1933, the Children Act, 1974, Suppression of Violence Against Women and Children Act, 2000 and sections 292, 293, 294, 360, 361, 366, 367, 372, 373, 375, 377 of the Penal Code.

Child Marriage

As mentioned earlier, the Child Marriage Restraint Act, 1929 prohibits marriage of girls under 18 years of age and men and boys under 21 years of age. However, under Muslim Personal Law (Sharia Law), a child under 18 years of age may be given in marriage by a guardian until she or he reaches puberty.¹⁹⁹ The Dissolution of Marriages Act, 1939 does, allow a child bride to repudiate the marriage on attaining puberty or the age of majority, 18 years, provided the marriage has not been consummated.²⁰⁰ However, as Saira Rahman Khan points out in her study, *The Socio-Legal Status of Bangali Women in Bangladesh* repudiating the marriage on attaining the age of majority is not so easy:

[she] must prove that the marriage was agreed by her parent/guardian, that it was solemnised when she was below 15 years of age, that she has repudiated the marriage before she reached 18 and that the marriage has not been consummated.²⁰¹

This is a tall order for many girls who are unlikely to know the law, let alone take the case forward. With regard to the registration of marriages, the Muslim Marriages and Divorces (Registration) Act, 1974, at Section 3, states that "Notwithstanding anything contained in any law, custom or usage, every marriage solemnised under Muslim Law shall be registered in accordance with the provisions of this Act."²⁰²

According to Hindu Personal Law, child marriage is permitted and unlike Muslim law does not give the child bride the option of repudiating the marriage at any age.²⁰³ Custom does not allow for divorce among Hindu marriages.

Legal, social and cultural norms preclude sex outside marriage, however, it is of concern that the specific age of sexual consent is still not clear.²⁰⁴ Moreover, according to the Penal Code (Act XLV of 1860), rape within marriage is not considered a crime unless the wife is under 13 years of age. This is in direct contravention to the Child Marriage Restraint Act, 1929 as the bride cannot be younger than 18 years. Moreover, according to Section 375 of the Penal Code, any man who has sexual intercourse with a female, with or without her consent, when she is under 14 years of age will be said to have committed rape. Rather than being described as a 'child', the 14 year-old is described as a "woman" which is in contravention of the Children Act, 1974, and the CRC.

Advocate Sigma Huda, Bangladesh Society for Enforcement of Human Rights (BSEHR), filed a petition in the court requesting its direction to study the inconsistencies and identify the anomalies with the Child Marriage Restraint Act, 1929 and between it and customary law (both Muslim and Hindu Personal Law).²⁰⁵ As of October 2001, the petition had been 'stayed' (kept pending) so that she could substantiate it further.

¹⁹⁹ UNDP Bangladesh, *National Gender Profile* (Dhaka: UNDP Bangladesh, 1999) p.24

²⁰⁰ *Ibid.*

²⁰¹ Saira Rahman Khan (2001), p.85.

²⁰² *Ibid.*, 84.

²⁰³ UNDP (1999), p.26.

²⁰⁴ As stated in Section 373 of the Penal Code, 1860, 'illicit intercourse' is sexual intercourse between persons not united in marriage or by any union or tie which, though not amounting to a marriage, is recognised by the personal law or custom of the community to which they belong... Discussion with Faustina Pereira, Advocate, Ain O Salish Kendra, 21 June 2001 and discussion with Sigma Huda, Advocate, Bangladesh Society for Enforcement of Human Rights, 3 October 2001.

²⁰⁵ Discussion with Sigma Huda, Advocate, Bangladesh Society for Enforcement of Human Rights, 3 October 2001.

Children in Safe Custody

According to the *Nari O Shishu Nirjaton Domon Act, 2000* the previous controversial practice of 'safe custody'²⁰⁶ has been formally institutionalised by law.

According to Section 31 of the Act, 'safe custody' is explained as follows:

If during the investigation or trial of any offense under this law the tribunal considers that any woman or child needs to be kept in safe custody, the tribunal **can give the order** for the woman or child to be kept outside the jail and in a government approved place for this purpose under the care of the government. **[my emphasis]**.

While the Act (at Section 31) states that 'the tribunal can give the order for the woman or child to be kept outside the jail and in a government approved place...', no clear guidelines regarding the 'government-approved place' for safe custody have been put in place. The accreditation process the 'government-approved place' has not yet been determined.

There is some uncertainty between the *Nari O Shishu Nirjaton Domon Act, 2000* and the Children Act, 1974 which states that children requiring special protection (either for fear that an offence will be/or has been committed against that child) are to be taken 'to a place of safety.' (Part VIII Section 55(2)) In the new Act, as mentioned, the place where the victim or possible victim will stay is not adequately made clear, which raises concerns that the previous practice of placing those in "safe custody" behind bars, will continue as will the abuse.

²⁰⁶ Until the passage of the *Nari O Shishu Nirjaton Domon Act, 2000* there existed no legal basis for ordering 'safe custody' with several notable exceptions. Chapter XXIV, Lunatics, Section 466 (2) and 471 (1) of the Code of Criminal Procedure, 1898, states that the "Magistrate or Court, as the case may be, shall order the accused [to protect him or herself or others] to be detained in safe custody in such place and manner as he or it may think fit, and shall report the action to the Government" [in accordance with the Lunacy Act, 1912]. Under Section 13, 'the Suppression of Immoral Traffic Act, 1933,' police may recover girls under 18 from places such as brothels and under Section 14 the Magistrate usually puts the girl into 'safe-custody' in a jail or detention centre or sends her to a relative. Under the 'Children Act, 1974,' victimised children (section 57) are sent to juvenile court and according to Section 58, they may be sent to certified institutes or approved homes. Under Section 2(j) the "Place of Safety" is defined as places including remand homes, or any other suitable institution where such institution is not available. For male children, a police station where children are kept separately from other inmates is possible. Source: SCF:UK "The Legal Backdrop" *Safe Custody Orders: The Victims*. [no date].

Children engaged in prostitution

According to the Suppression of Immoral Traffic Act, 1933, no girl under 18 years of age may be engaged in prostitution (defined according to the act as 'any female available for the purpose of prostitution, which is promiscuous sexual inter course for hire, whether in money or kind').²⁰⁷ Moreover, any person who brings or attempts to bring (either through force or encouragement) a girl under 18 years of age to a place for purposes of prostitution shall be punished. In addition, no one is permitted to manage a brothel and/or lease it to person(s) who will use the premises for such purposes.

According to Section 42 of the Children Act, 1974, no girl under 16 years of age, either willingly or through coercion, is permitted to work as a prostitute. Anyone who causes or encourages her to become one will be punished. Moreover, according to Section 41, no child over the age of 4 years is permitted to reside in or frequent a brothel and anyone who allows this to take place will be punished. According to the Penal Code, anyone who induces or forces a girl under 18 years of age into illicit intercourse shall be liable to punishment.

Of note, neither the Suppression of Immoral Traffic Act, 1933, nor the Children Act 1974, makes any mention of boys engaged in prostitution.

Although not part of any written law, a practice has emerged in Bangladesh whereby any woman above 18 years may affirm an affidavit before a Notary Public or First Class Magistrate attesting to her age and that she has willingly chosen to engage in prostitution, by not having any other source of income.²⁰⁸ The affidavit is commonly referred to as the license or registration of the prostitute.²⁰⁹

In her study of Daulotdia Brothel, Thérèse Blanchet found that no one may be engaged in prostitution in the brothel unless her name is entered into the thana (local municipality) police register and a fee is paid: "[t]he brothel is an important source of income for the thana police who have clear interests at stake in keeping business flourishing even though it means covering up and protecting illegal practices."²¹⁰ According to her findings, the younger and prettier the girl, the higher the fee required.²¹¹

²⁰⁷ Of note, the Act only pertains to girls; there is no such law for boys.

²⁰⁸ Discussion with Faustina Pereira, Advocate, Ain O Salish Kendra, 22 June 2001, Dhaka.

²⁰⁹ BNWLA, *A Research on Prostitution: An unresolved social issue due to incomprehensive nature of Suppression of Immoral Traffic Act, 1933* (Dhaka: BNWLA, 1999), p.25 and see also BNWLA, *Prostitution: Women, Society, State and Law* (Dhaka: BNWLA, 1997) p.10.

²¹⁰ Blanchet (1996), p.126 and also Md. Farid Uddin, Monira Sultana, and Sultan Mahmud; Maggie Black, Harriet Goodman and Rachel Kabir (eds.), *Growing up in the Daulotdia and Kandapara brothel communities of Bangladesh* (Save the Children Sweden, draft of January 2001), p.15.

²¹¹ Ibid.

BNWLA is one NGO that has filed a case with the Bar Council against a Notary Public and lawyer for having made false affidavits that two underage girls were at least 18 years so that they could be registered as prostitutes in Tanbazar Brothel. According to Salma Ali, Advocate, one girl was only 14 years old, but the document said she was 22 years old.²¹² The case was filed over three years ago, and although BNWLA keeps following up, as of September 2001 there has not yet been any judgement.²¹³

Of note, the newspaper, the *Daily Ittefaq*, in May 2001, reported that Judge Rahman, presiding over the Women and Children Anti-Repression Tribunal (established under section 26 of the 'Nari O Shishu Nirjaton Domon Act, 2000') in Tangail District awarded life imprisonment and a fine of Taka 5000 each to two persons charged with selling an adolescent girl to Kandapara Brothel, Tangail.²¹⁴ The father gave his daughter up to two men on the agreement that they had found her a job as a domestic worker. They subsequently sold her to the brothel and police rescued her.

Given the absence of birth registration, the difficulty of proving one's age and collusion between *sardanis* (madams), *dalals* (pimps) and the Notary Public and police, many of the registered prostitutes are in fact children forced into prostitution. The police maintain dual roles with the sex workers, acting as their protectors as well as getting money from the brothel.²¹⁵ They also collude with traffickers who sell women and children to the brothel. Moreover, as mentioned earlier, socially and legally, once a girl reaches puberty – sometimes as young as 13 years – she is no longer viewed as a child (as per the definition in the CRC) but rather as a woman. This belief is a contributing factor to the persistence of child prostitution. According to the consultations held with children who grew up in the brothel, those at risk of becoming prostitutes include daughters and adopted daughters of registered prostitutes, trafficked girls, girls living with a step-parent, girls who have had a pre-marital relationship, sexually abused girls, orphans and girls living in slums.²¹⁶

²¹² Discussion with Salma Ali, Advocate, BNWLA, 25 June 2001. Dhaka.

²¹³ Discussion with Salma Ali, Advocate, BNWLA, 25 June 2001 and 8 October 2001, Dhaka.

²¹⁴ 'Two persons get life term in Tangail for selling an adolescent girl to brothel,' in *Daily Ittefaq* [Dhaka] 14 May 2001 (English translation from Bangla original).

²¹⁵ Uddin, Sultana and Mahmud, (January 2001 Draft) p.18.

²¹⁶ Discussion with Rachel Kabir on findings from consultations held with children who grew up in the brothel in the month of July 2001, 23 September 2001, Dhaka.

Affidavit for Prostitution as Profession

While rescuing some teenagers from Kandupatty, the police recovered and captured some affidavits. During the interviews the girls told "sardani told us that we have license, police can do nothing." It was found that the affidavits were in the presence of a notary public who is also our advocate. Dalals or the pimps prepared these documents. The language of such affidavits are almost same in which the girls put their left thumb impression (LTI)... In the affidavits the girls stated their names, their fathers' names, addresses, ages, religion and nationality and made a declaration as to why they choose to become prostitutes. Advocate Md Shahjahan was appointed as a Lawyer by the dalals who on behalf of these girls appeared before the court and deposited the affidavits to the same... In fact, the girls never prepared the affidavits themselves or heard the contents of these documents or even they did not put their LTIs... The girls confessed before us that they never became prostitutes after affidaviting. They solemnly gave their affirmation and declaration in the affidavits long time after becoming prostitutes though there is a rule that the affidavit has to be made before this profession.

Source: Maudad, Baby (ed.) *Teen-Agers Are Forced For Flesh Trade* (Dhaka: Mahila Porishad, 1992) p.71.

According to Section 377 of the Penal Code, 'unnatural offences' which can include males having sex with males are punishable with life imprisonment or with a term up to 10 years and a fine (see Annex 1).

Trafficking in Children

The *Nari O Shishu Nirjaton Doman Act, 2000* also prescribes harsh penalties for trafficking (including sale and purchase) of women and children outside the country (see sections 5 and 6) and for kidnapping or abducting children and women (refer to section 7).²¹⁷ The law also provides for special Women and Children Anti-Repression Tribunals to hear and try the case expeditiously.

As it is profitable and a source of income for influential and powerful individuals and networks and many people living on the border, there is a vested interest in keeping 'trafficking' in existence. This is one of the key obstacles to eliminating trafficking. Nevertheless, as the South Asia Human Rights Documentation Centre (SAHRDC), Dr Jyoti Sanghera and others argue, any effort to eliminate or curtail trafficking must include a component which involves the government, including law enforcement officials (border security forces and police) and policy-makers.²¹⁸ The creation of more stringent laws will not eliminate the trade, rather addressing the lack of adequate enforcement and corruption is first required.

²¹⁷ see Annex 1 for a copy of the unofficial translation of the law.

²¹⁸ Sanghera, (March 2000) p. 36.

Another dimension of the problem is that men employed overseas occasionally come back to marry, and police cannot arrest husbands who are travelling with legally married wives to other countries.²¹⁹ Men may come back and express a wish to marry: parents think their daughters will have better prospects and only after something happens do they get suspicious. The researcher notes, however, that during a visit to Shibganj District, ACD workers informed her that previously many girls were married to Indian men, including strangers, but that now girls, parents and the community as a whole are more wary of strangers coming to get married and less likely to marry their daughters to them.²²⁰

What makes trafficking so difficult to determine is that the distinction between trafficking and illegal border crossing/migration is not always clear. As Dr Jyoti Sanghera, BNWLA, Professor Ishrat Shamim and Farah Kabir and UBINIG point out in all their reports, if apprehended at the border, most traffickers will get charged with illegal border crossing and not the non-bailable offence of trafficking, which is, admittedly, more difficult to prove.

According to a senior official with Bangladesh Rifles, the traffickers are not punished because the victims withhold complaints. Therefore, "[h]ere, the victims are charged under section 11 (C) of the Passport Act [in fact, it is officially called the Bangladesh Passport Order, 1973] but are released of charges the next day because it is a minor offence to travel across a border without a passport. Law prescribes only nominal fine and one month imprisonment for this."²²¹

BNWLA has found that rather than withholding complaints, law enforcement officials accept bribes to allow illegal crossing or hold traffickers responsible only for a passport violation, a lesser charge instead of trafficking, which has severe penalties.²²² In 1997, only 128 individuals were arrested on a trafficking charge.²²³ As documented by Professor Ishrat Shamim and Farah Kabir, a joint study by the Ministries of Home, Social Welfare and Women's Affairs showed that over a period of 5 years, at least 13,220 children were smuggled out of Bangladesh of whom only 4700 were rescued.²²⁴ During this period, only 53 cases of trafficking came before the courts out of which 35 had to be dropped because of lack of evidence and only 21 culprits were convicted.²²⁵

Many victims withhold complaints, but corruption is also a problem. While even locals know who the traffickers are, little is done to stop them from operating. This is because both locals and the trafficking victim fear reprisal from the trafficker and his/her network. They may owe money to the trafficker. Moreover, the need to financially support themselves and/or their families makes them unwilling to do anything that may jeopardise that goal. Moreover, they distrust the capacity of law enforcement officials to protect them. In many cases, people don't report incidents because they are not familiar with the law, and/or lack confidence in the legal system.

²¹⁹ Professor Ishrat Shamim and Farah Kabir, (1998) p.17 and Ishrat Shamim (2001) p.7.

²²⁰ visit to ACD project sites in Shibganj, Rajshahi Division, 10 June 2001.

²²¹ *The Daily Star* [Dhaka] 20 December 1997) in Ishrat Shamim, (IOM, 2001) p.39.

²²² BNWLA, (BNWLA with UNICEF support, October 1998-June 1999) p.8.

²²³ Ibid.

²²⁴ referenced in Professor Ishrat Shamim and Farah Kabir, (1998) p.7.

²²⁵ Ibid, p.7.

Child Pornography

While the law does not specifically mention 'child pornography', Sections 292, 293 and 294 of the Penal Code (Act XLV of 1860) pertain to the sale, rent, distribution, exhibition and/or circulation of materials that are 'obscene.' Interestingly, the punishment for selling, renting, distributing, exhibiting and circulating obscenity to young persons under 20 years of age is twice as harsh (with the penalty extended from a prison term of up to three months and/or a cash fine up to six months in prison and/or a cash fine). Refer to Annex 1 for more details.

Legislative Remedies

According to the National Plan of Action for Children (1997-2002), the government is trying to address the discrepancies in laws which pertain to children and the justice system. In particular those that require immediate attention,

the government is focussing on harmonizing the Children's [sic] Act 1974, read with the Children Rules 1976, laws relating to juvenile [sic] offenders, and the Bengal Vagranancy [sic] Act 1943. They need to be brought into consonance with the CRC. The government has set up an inter-ministerial Core Group and a Task Force in December 1997 to strengthen and streamline the juvenile justice system.²²⁶



²²⁶ Ministry of Women and Children Affairs, *National Plan of Action for Children 1997-2002*, p.111



From discussions with NGO, INGO, UN agency and government project staff and other concerned officials, good practices are to be identified and analysed. The following section is not an evaluation of individual interventions. Rather, as mentioned above, it is intended to identify 'good practices' (approaches), challenges, gaps and recommendations for combating sexual exploitation and abuse.

Criteria for gauging what constitutes a 'good practice'

It is difficult to assess what constitutes 'good practices' for combating sexual abuse, exploitation of children, including trafficking of children. This is because, as mentioned below, there are still so many gaps to fill in information and experience. Nevertheless, there are some essential criteria: the intervention(s) must be rights-based and therefore in adherence to international human rights instruments, particularly the CRC, Stockholm Agenda for Action, and ILO Convention No. 182.

Drawing from the experiences shared in Stockholm, good practices with specific respect to combating child sexual exploitation should therefore fit into one or more of the following areas (with child participation ideally as a cross-cutting theme):

1. coordination and cooperation;
2. prevention;
3. protection;
4. recovery and reintegration, and;
5. child participation.²²⁷

With respect to national policy, 'good practices' should also support implementation of the Government of Bangladesh's National Plan of Action for Children 1997-2002 (NPA). The NPA recognises that 'children in need of special protection' includes children who are sexually exploited and abused and requires the efforts of all sectors of services dealing with child development issues. As clearly stated in the NPA,

There has been increasing recognition of sexual abuse that children face at home and elsewhere... Although it is not known how many children face the threat of sexual abuse, WHO estimates that in South Asia, one in ten face this problem. The Government recognizes the existence of the problem and has entered into discussion with NGOs which are becoming increasingly involved in preventive and mitigating action.²²⁸

²²⁷ See www.focalpointngo.org/DOCS/English/98_0006_uk.html as of 7 June 2001. See also Vitut Muntarbhorn, *Extraterritorial Criminal Laws against Child Sexual Exploitation* (Geneva: UNICEF, 1998), p.114-118).

²²⁸ Ministry of Women and Children Affairs, (1999) p.108.

'Good practices' should also support implementation of the forthcoming *National Plan of Action against Sexual Abuse and Exploitation of Children, including Trafficking*. The National Plan of Action will create a blueprint for action by the Government, in cooperation with children and national and international organisations (including NGOs, INGOs, UN Agencies, bilateral partners) in the following areas: prevention, protection, recovery and reintegration, monitoring and coordination, HIV/AIDS, Sexually Transmitted Infections (STIs) and Substance Abuse, Child Participation, and Perpetrators.

Therefore, in identifying what constitutes a 'good practice' in combating child sexual abuse and exploitation (including trafficking), approaches which adhere to the principles of child-rights have been identified and documented. While very few evaluations and studies have been undertaken to determine the effectiveness of the interventions outlined below, a 'good practice' should ideally have made a measurable impact in achieving the above objectives.

Examples of 'Good Practices'

From project visits, documentation and discussions with project staff and others it is clear that many interventions and 'good practices' are working in multiple areas. For example, NGOs may combine coordination, prevention, protection, child participation, and recovery and reintegration approaches. The following are highlights of the 'good practices' (including lessons learned and challenges) for combating child sexual exploitation and abuse in Bangladesh.

Coordination and Cooperation:

Participatory approaches to facilitating and formulating a National Plan of Action against Sexual Abuse and Exploitation of Children, including Trafficking

To assist the Government of Bangladesh in meeting its obligation before the 2nd World Congress against Commercial Sexual Exploitation of Children, NGOs, INGOs, and UN agencies were invited to join a 'Core Group' (established in February 2001) steer-headed by a senior official from the Ministry of Women and Children Affairs.

The tasks of the 'Core Group' and its subsidiary subnational 'Technical' and 'Child Consultation' groups were to create a national policy to address both sexual abuse and exploitation (including trafficking) of children and to identify good practices to combat such problems.

The *National Plan of Action against Sexual Abuse and Exploitation of Children, including Trafficking* stands out as a good practice because of the participatory process that has led to its formulation. In addition to being a product of a diverse group consisting of NGO, INGO, UN and government representatives, it has furthermore sought to ensure the input of divisional and district-level officials and NGO representatives during three sub-national meetings. A separate process involved children's input to the national plan of action. It was undertaken to ensure their views were solicited and incorporated in an interactive, yet ethical and non-threatening way. Facilitators with extensive experience working with children and promoting children's rights designed the methodology and led the nine consultations held with children.

Local-level initiatives

In addition to national-level initiatives to improve coordination and cooperation amongst a wide number of actors, it is also important to note what is being done at the local level to combat competition, rivalry and duplication. For example, in Jessore (a district in South West Bangladesh), CARE Bangladesh has created an HIV Steering Committee in Jessore to bring together the large number of organisations working with sex workers and sexually exploited children to avoid duplication and promote coordination.²²⁹

In Daulotdia brothel, in the past couple of years, a lot more NGOs have begun working than did previously. Save the Children Australia has organised monthly meetings amongst the NGOs working there to help avoid duplication and overlap in their interventions.²³⁰

Coordination and cooperation to combat trafficking

With respect to NGO efforts to coordinate and cooperate in anti-trafficking efforts, the 15 member NGOs of Action Against Trafficking and Sexual Exploitation of Children (ATSEC) Bangladesh Chapter coordinate among themselves for repatriation and rehabilitation and legal aid.²³¹

As part of the ILO-IPEC project 'Trafficking in Children in South Asia' (TICSA) which is being implemented in three countries: Bangladesh, Nepal and Sri Lanka, a network between local NGOs have been established to coordinate anti-trafficking activities between the three Northern districts of Panchagahr, Dinajpur and Thakurgaon.²³² Such efforts include awareness-raising and training of paralegal groups.²³³ The TICSA project has a Project Advisory Committee chaired by the Joint Secretary, Ministry of Women and Children Affairs (MoWCA). In so doing it seeks to promote coordination between the Government, UN and INGOs on anti-trafficking efforts.²³⁴

Matthew Friedman, Technical Advisor, Population, Health and Nutrition Office, USAID has pointed out that, at the moment, most efforts to build coordination and cooperation to combat trafficking have focussed on the NGO sector, rather than Government where more attention is needed.²³⁵ In addition to the ILO-IPEC project, with the new NORAD-funded project of the Ministry of Women and Children Affairs (MoWCA), outlined below, it is anticipated that this weakness may be addressed.

According to the Project Proforma (PP) of the MoWCA project to combat child trafficking, 'Child Development Coordinated Program to Combat Child Trafficking, Pilot Project 1' children and women are trafficked to India, Pakistan, and the Middle East through 25 *upazillas*²³⁶ situated along the border with India.

²²⁹ Discussion with Dr K.F. Mahmud, Project Manager, HIV/AIDS Prevention Project, 3 June 2001, Jessore.

²³⁰ Discussion with Sultan Mahmud, Country Director, Save the Children Australia, 11 June 2001, Dhaka.

²³¹ Discussion with Mizanur Rahman, Project Director, ATSEC, 8 October 2001, Dhaka.

²³² Discussion Tine Staermose, Chief Technical Advisor, ILO-IPEC, TICSA, 8 November 2001. The TICSA project is for two years, June 2000-June 2002.

²³³ Ibid.

²³⁴ Ibid.

²³⁵ Discussion with Matthew Friedman, Technical Advisor, Population, Health and Nutrition Office, USAID, 24 September 2001, Dhaka.

²³⁶ An 'upazilla' is an administrative tier of government at the sub-district level. There are currently 463.

The three-year pilot project will be implemented in 14 Districts, 25 Upazilas (including trafficking and transit points) with support of the Royal Norwegian Embassy. The project seeks to develop an effective mechanism and administrative set-up to address child trafficking, activate multi-sectoral institutional initiatives for different agencies, effectively dispose of child trafficking cases and rescue and rehabilitate trafficked children.²³⁷ As of researching and writing this paper, many of the activities were not yet in the implementation phase and therefore it is difficult to glean the 'good practices'. Nevertheless, what is interesting about the project is how it seeks to address a critical gap in previous anti-trafficking efforts: the development of structures/administrative set-up and mechanisms in the government -at national, district and thana levels to combat child trafficking.²³⁸ As mentioned already, thus far, most anti-trafficking initiatives have been undertaken by NGOs. The project also seeks to establish coordination mechanisms between all multisectoral initiatives (including those of NGOs) so as to strengthen existing institutional and community-level activities to combat trafficking. It also seeks to improve dispensation of justice in the field of trafficking, and to improve mechanisms for the more effective rescue, rehabilitation and reintegration of trafficked children.

The project office has been established in the Ministry, however, a cell will be established in the Ministry of Home Affairs to coordinate and carry out all rescue and recovery operations. This will involve the Bangladesh Rifles (BDR), police, village-level police (Ansar Village Defense Party (VDP)).²³⁹ The project office will also review all existing policies, laws, rules and regulations on rescue and repatriation for revision and streamlining. The National Task Force will be headed by the Minister of Home Affairs, with the Minister of Women and Children Affairs serving as Vice-Chair. A project Steering Committee will be headed by the Secretary MoWCA. District and Thana-Level Task Forces will be chaired by the Deputy Commissioner and Thana Nirbahi Officer, respectively, with the membership and active involvement of the Superintendents of Police, BDR Vice-Chairs, NGOs, imams, primary school teachers, and youth.

ILO-IPEC is exploring ways to include its partners, including government, employers' associations and trade unions, in efforts to combat trafficking. In October 2001, the delegation from Bangladesh agreed to focus on the reintegration process, in particular, job placement and skills training for trafficking victims. It furthermore, sought to learn more about how the tourism and transport sector could serve as 'watchdogs' in the country's anti-trafficking efforts.²⁴⁰

Networking and capacity-building among NGOs

Action Against Trafficking and Sexual Exploitation of Children (ATSEC) Bangladesh Chapter is a networking organisation of 15 member NGOs who are working to combat trafficking in children. It was established in May 1998 in Calcutta, and since that time chapters have been established in West Bengal, Nepal and 17 states in India. The Regional Secretariat of ATSEC is in Bangladesh. The objectives of ATSEC are to share information and build capacity among members and associate members to combat trafficking in children. As explained by the Project Director, the more networks the better for prevention of trafficking.²⁴¹

²³⁷ Ministry of Women and Children Affairs, Project Proforma (PP) Dhaka: May 2000.

²³⁸ See Ministry of Women and Children Affairs, *Project Proforma* (PP) 'Child Development: Coordinated Programme to Combat Child Trafficking (Pilot Project)', Dhaka, May 2000; and also Dr Kazi Saleh Ahmed, Mrs Gule Afruz Mahbub and Dr Jyoti Sanghera, 'Appraisal of the PCP: Coordinated Programme for the Elimination of Child Trafficking,' Final Report, 20 July 1998.

²³⁹ VDP Ansar is a para-military unit consisting of equal numbers of men and women who cannot take legal action, but who help maintain law and security at the village level.

²⁴⁰ Correspondence from Tine Staermose, Chief Technical Advisor, ILO-IPEC, TICSAs, August 2001 and discussion with Ms Staermose, 8 November 2001, Dhaka.

²⁴¹ Discussion with Mizanur Rahman, Project Director, ATSEC, 8 October 2001, Dhaka.

Through Save the Children Denmark, USAID provides support for ATSEC to improve its resource centre and database. It further provides technical support to grassroots organisations, including 8 associate members, including training and advocacy and support in planning, managing, implementing, monitoring and evaluation for better anti-trafficking efforts (including aspects of safe migration and some of the risks involved in illegal migration).²⁴² It seeks to support their efforts to create effective local campaigns to combat trafficking and will seek to create linkages with other organisations and networks elsewhere for incorporating their best practices.²⁴³

ATSEC also aims to build the capacity of its member and associate member NGOs in the provision of psycho-social care and support.

ILO-IPEC, which is working with the Government of Bangladesh to help implement ILO Convention No. 182 similarly seeks to enhance the knowledge base amongst all stakeholders on trafficking.²⁴⁴ In so doing, it seeks to work closely with its NGO partners to build their capacity in action research. One interesting feature is that the same research methodologies are being used in the three participating countries. This will feed into a comparative regional analysis of the problem of trafficking, which is considered one of the worst forms of child labour.

Awareness-raising for prevention of child sexual abuse

Rather than trying to tackle the problem themselves, Breaking the Silence (a Dhaka-based NGO) specifically aims for prevention and awareness-raising by encouraging other organisations/institutions to incorporate information about child sexual abuse in their programmes.

Breaking the Silence will seek to create a module that can be taken up by some of the large NGOs which have the capacity to influence large numbers of their members.²⁴⁵ It has already entered into a dialogue with BRAC about this issue, including incorporation of awareness and prevention of sexual abuse in the curriculum of its Adolescent Girls' Peer Organised Network (APON) programme and orientation with staff, including junior and field level teachers.²⁴⁶ In addition, after first speaking with parents, it has engaged with students in both formal (Agroni, Salvation Army and World Vision schools in Dhaka) and non-formal schools (the UNICEF-supported Basic Education for Hard-to-Reach Urban Children Project) about sexual abuse.

While waiting for various health services at the Radda Clinic in Mirpur, girls and mothers are provided with information about child sexual abuse by Breaking the Silence's social counsellor, Sadeka Islam as a form of prevention.²⁴⁷ Between June 1998 and June 1999, she discussed child sexual abuse with 1,388 clients who came to receive services.

²⁴² Discussion with Matthew Friedman, Technical Advisor, Population, Health and Nutrition Office, USAID, 24 September 2001, Dhaka and discussion with Mizanur Rahman, Project Director, ATSEC, 8 October 2001.

²⁴⁴ Discussion with Mizanur Rahman, Project Director, ATSEC, 8 October 2001.

²⁴⁵ Discussion with Tine Staermose, Chief Technical Advisor, ILO-IPEC TICSA, 8 November 2001, Dhaka.

²⁴⁶ Discussion with Afsan Chowdhury, member, Breaking the Silence, 7 June 2001, Dhaka.

²⁴⁷ Discussion with Breaking the Silence members, 14 June 2001, Dhaka.

Breaking the Silence members have furthermore facilitated workshops on child sexual abuse in several Divisions with school and other government officials, participating NGOs and others. There still appear to be differences of opinion between district and national-level officials about whether the issue should be incorporated into the school curriculum, however, Breaking the Silence members continue to raise the issue. One member, a Member of Parliament raised the issue during last year's June 2000 session. While she did not receive any support, it demonstrates the varied means by which members, in their own capacity and as a group, are seeking to bring the issue of child sexual abuse into the mainstream debate for action.

All involved in the 'Child Development Network,' which includes social workers, psychologists, clinical psychologists and doctors (including neurologists, eye specialists and other pediatricians) from hospitals and medical facilities around the country have received training about child sexual abuse and will refer cases to each other when needed.

Children participating in Resource Bangladesh's drop-in centre said their parents don't know about sexual abuse.²⁴⁸ They said that pamphlets like the ones Monwara Parveen hands out at the Shishu Hospital about sexual abuse (created by Breaking the Silence) can be useful, but that for parents who cannot read, nurses need to tell them and all the hospitals should have copies, not just those part of the Child Development Network.²⁴⁹ (See also the section on peer education for more information about how children are disseminating information about sexual abuse to other children).

Lessons learned and challenges

Although the Breaking the Silence Group has begun to create a space where child sexual abuse can be discussed, one of its members, Afsan Chowdhury is among the first to recognise the challenges that still remain: more training and skilled service provision is required.²⁵⁰ He says "there is a reluctance on the part of many NGOs, counsellors, etc to go into this type of work because it is difficult, time-consuming, and they need very good training." Child Psychologist Monwara Parveen who works with children who have been sexually abused agrees and says that there is a need for more social counsellors to inform pregnant women, parents of children with disabilities and others.²⁵¹

²⁴⁸ Discussion with Zakir, Resource Bangladesh, 25 June 2001.

²⁴⁹ Discussion with Farzana, Resource Bangladesh, 25 June 2001.

²⁵⁰ Discussion with Afsan Chowdhury, member, Breaking the Silence, 7 June 2001, Dhaka.

²⁵¹ Discussion with Monwara Parveen, Child Psychologist, Dhaka Shishu Hospital, 24 June 2001.

Media

With regard to child sexual abuse, some information is contained on sexual exploitation, but until recently, very little has been aired, heard or written about sexual abuse of children in the media. There is evidence that this is changing, thereby creating more awareness about the problem. Bangladesh Betar, the government-operated radio station, on its weekly Saturday morning channel "Child Development" has featured Child Psychologist Monwara Parveen speaking about sexual abuse.

Following the national consultation to create a *National Plan of Action against Sexual Abuse and Exploitation of Children, including Trafficking* (held in Dhaka on 16 September 2001), an editorial appeared in the English Daily, the *Daily Star* praising the government for convening such a meeting to include the problem of child sexual abuse on the agenda and urging the government to undertake action in this area.²⁵²

Moreover, in a five-year initiative that started in August 2001 of the Government and UNICEF, the Bangladesh Shishu Adhikar Forum (BSAF), Bangladesh Television (BTV) will be airing weekly 25 minute programmes on children's rights to create greater awareness. Messages will include information about child trafficking and child sexual abuse.²⁵³

The Ministry of Women and Children Affairs and Ministry of Information have sponsored television spots on children's rights, which include sexual abuse and exploitation, however, senior officials in the Ministry of Women and Children Affairs recognise that much more must be done to build awareness and break the stigma associated with this form of child rights violation.²⁵⁴

Child peer educators

An interesting feature of several NGO and government programmes is the development of 'peer educators' who impart information and skills on a wide variety of children's rights issues, including, in some cases, information about sexual exploitation and abuse to other children (their peers). Visibly, many of the adolescent 'peer educators' are confident and well-aware of their rights.

²⁵² 'Ending sexual abuse,' editorial in the *Daily Star* [Dhaka], 18 September 2001.

²⁵³ Discussion with Mizanur Rahman, Resource Bangladesh, 25 June 2001, Dhaka, and; Discussion with Muhammad Asgar Ali, Director, Bangladesh Shishu Adhikar Forum (BSAF), 7 October 2001, Dhaka.

²⁵⁴ Discussion with Mr Rab, Joint Secretary, Ministry of Women and Children Affairs and Mr Shamsul Arefin, Senior Assistant Secretary, Ministry of Women and Children Affairs, 25 June 2001.

Through the Radda Centre (health clinic) and outreach programme in Mirpur, Breaking the Silence, for example, has developed groups of adolescent girls (15 volunteers) and boys (10) who will impart messages about child sexual abuse through a Child-to-Child approach. They inform their classmates and arrange discussions with adults in the Mirpur area after the social counsellor has discussed the issue with mothers in the community. Unlike the girls, the boys are not yet sufficiently trained to impart information about sexual abuse to their friends and neighbours. Breaking the Silence has found that getting boys to discuss these issues is difficult, however, they are trying.

The Association for Community Development (ACD) in Rajshahi, has likewise developed peer educators in their adolescent girls' and boys and young men's groups who meet regularly. None of the peer educators are paid. The girls in Shibganj are mostly between the ages of 12 and 18 years and are mainly school and college-going, however, there are non-school going girls as well. The peer educators are facilitated by an adult woman (for the girls) or man (for the boys). They discuss reproductive health, early marriage, dowry, divorce, polygamy, trafficking (the area is a popular transit point for cross-border trafficking and migration), sexual exploitation, sanitation, and other issues. The girls say they enjoy the meetings as they get to exchange information that they do not learn in school.²⁵⁵ The social worker says she talks about sexual abuse with adolescent girls.²⁵⁶ As a group, girls explained they identified a suspected trafficker and informed the Union Parishad Chairman. They also inform the ACD staff if they know a girl is going to get married to an Indian man (a common means of trafficking girls).

The boys and young men similarly discuss early marriage, dowry, HIV/AIDS, sanitation and trafficking. The group in Shibganj, consisting of boys and men between the ages of 10 and 22 years said they meet twice/month. The peer educators are also facilitated by an ACD social worker.

BRAC's APON programme (partially supported through a project of the Ministry of Women and Children Affairs with support from UNICEF) has similarly created adolescent girl peer educators who facilitate the weekly girls' meetings. Of interest, BRAC identified the girls as the most appropriate facilitators of the girls' groups because they found the girls were more receptive of the information to be imparted to their peers, including messages about their rights, sexual and reproductive health and gender, than the adult women. The girls are paid a small salary and receive initial and periodic trainings to keep apprised of new information.

Aparajeyo Bangladesh supports street children, operates drop-in centres and open-air schools, and supports an adolescent girls' hostel for street and former street children in Dhaka. It aims to reach potential street children at the main entry points to Dhaka (the railway and bus station and at the steamer/launch point). In addition to having staff who look for 'new' children, they utilise a Child-to-Child approach for identifying recent arrivals and informing them about the Aparajeyo programmes. The 'child motivators', former street children, work in the open-air street school part-time and continue with their education. They live in hostels and are paid Taka 1500/month. They serve as role models for the other children. It is the long-term aim of Aparajeyo Bangladesh that former street children will be working in and administering the NGO.

²⁵⁵ Discussion with adolescent girls and social worker in Shibganj Sadar Thana, Rajshahi Division, 10 June 2001.

²⁵⁶ Ibid.

INCIDIN Bangladesh's 'Misplaced Childhood' drop-in centre in Dhaka currently has employed 4 girl and 4 boy peer educators, all of whom are engaged in prostitution who receive training and who receive a small salary for disseminating information to their peers. They play a critical role in building rapport with other children and encouraging them to come to the centre. INCIDIN Bangladesh aims to build up their skills and encourages them with training to find other non-exploitative jobs and employment: 5 of the children have been offered jobs in other organisations.

Challenges, lessons learned and questions regarding child 'peer educators'

While it appears that 'peer educators' develop their leadership and communication skills, as well as expertise on the information they are disseminating to their peers, there are nevertheless lots of remaining questions about which approaches are best. In some cases, 'peer educators' are paid for the service they provide, whereas for others it is volunteer. It is unknown which approach yields the greatest impact and benefit both for the peer educator her or himself or for the children at the receiving end of the information. Another unresolved issue worth exploring is if 'peer educators' are chosen from amongst the best educated children or not, and/or if more socially and economically disadvantaged children are given equal opportunities and/or investment is placed in them so that they too can become 'peer educators.' How long do children serve as 'peer educators'; is there rotation and how often does that take place? Are 'peer educators' given opportunities to undertake refresher trainings or courses? As peer educators, do they interact only with their peers or do they have opportunities to interact and inform adults? Finally, are 'peer educators' responsible for facilitating meetings and discussions on their own, or are they assisted by adults and which approach works best?

Creation of 'safe havens'

Many NGO, INGO, UN and Government-supported interventions aim to create a safe and non-exploitative environment for children living on and off the street, including children being sexually exploited. Drop-in centres have been established in areas of urban centers where children are most likely to arrive, work and congregate. Some such centers provide a wide range of services and programmes including health care, non-formal education, games, vocational training, job placement, and psychological counselling for girls and boys up to 18 years of age.²⁵⁷

The Appropriate Resources for Improving Street Children's Environment (ARISE) project of the Department of Social Services, Ministry of Social Welfare and supported by UNDP, aims to undertake a holistic approach comprising 12 components, including support street children with drop-in shelters, non-formal education, opportunities for vocational training, health services and counselling through partner NGOs and government partners.²⁵⁸ Project activities commenced in 1999 are expected to continue up to end March 2002. This is the first such effort of the government taking place in 6 Divisional Cities. Many of the children, girls in particular, have been sexually abused and exploited, and this is their first opportunity to be provided with various types of services to assist them in recovery.²⁵⁹

²⁵⁷ Visit to ACLAB drop-in centre in Khulna supported by UNDP/DSS-supported ARISE Project, 3 June 2001, Khulna.

²⁵⁸ Discussion with Mr Dewan Zakir Hussain, Deputy Secretary, Ministry of Social Welfare and National Project Director, ARISE Project, Department of Social Services, Dhaka, 5 September 2001.

²⁵⁹ Ibid.

Under CARE's HIV/AIDS Prevention Programme, adolescent boys and men frequent the CARE drop-in centres in Jessore to get information about HIV/AIDS, STIs, and play games.

Under its 'Capacity-Building, Poverty Alleviation and Sustainable Livelihood of the Socially Disadvantaged Women (SDW) and their Children' project implemented by the Department of Social Services, Ministry of Social Welfare (and supported by UNDP), day 'shelter homes' for children of sex workers have been created outside 5 brothels and for street-based sex workers in Dhaka. Creche facilities offered for children aged 0-5 years, are for 24 hours and boarding facilities are available for adolescent girls and boys who may be most at risk of being sexually abused and exploited.²⁶⁰ Non-formal education, formal education, health education (including HIV/AIDS awareness and prevention), vocational training and other services are provided to women and their children. The project is implemented through partner NGOs, including Nari Maitree, INCIDIN Bangladesh, and PIACT.

INCIDIN Bangladesh works with boys and girls engaged in street-based prostitution in Dhaka to improve their health (both physical and psychological) and provides opportunities for alternative forms of employment. It seeks to link up with other NGO and government interventions for improved service provision to children, better coordination and rapport-building. For example, field organisers and assistants take children to a number of organisations to show them where they can get information about STIs, reproductive health, pregnancy, training and condoms.²⁶¹ Through direct interventions with the General Post Office, it has been possible for children to open savings accounts with a Taka 5 deposit (banks refused to accept such low amounts as a first deposit).²⁶² Based on recommendations from the children beneficiaries of the project, several staff members were subsequently replaced which indicates that children have an important role in decision-making and this promotes accountability of staff to the children.²⁶³

Aparajeyo Bangladesh similarly offers drop-in centres for street children. It recognises that integrated efforts are required to combat children's lack of trust, low self-esteem, and shame (particularly if she or he has been sexually abused and/or exploited). Some children are extremely traumatised and may require more psycho-social care and services than others to help them recover. The children who go to the drop-in centre are encouraged to pool their resources and make their own food which is healthier than what they buy on the street and cheaper if they pool their money. When children are ready to leave life on the street, the hostels offer them a chance. As Jahan Ara, Manager, Girls' Hostel stated, occasionally the newer girls will leave for a couple of weeks, some will return to street work (including prostitution), however, they normally come back. Whereas they used to have more drop-outs, this no longer appears to be the case.

²⁶⁰ Ibid.

²⁶¹ INCIDIN Bangladesh, 'Project Annual Progress Report: Misplaced Childhood: A Pilot Project for Street Child Prostitutes in Dhaka City' 5 January 2001, p.9.

²⁶² Ibid, p.8.

²⁶³ Ibid.

Aparajeyo Bangladesh has maintained some links with children who have dropped out of their programme and there is evidence to suggest that they may have an influential role in encouraging other children to stay involved. For example, a girl who used to be engaged in street-based prostitution joined the Aparajeyo programme then dropped out. She got married, the marriage ended and she returned to prostitution. Through this period she maintained her links to the organisation and would occasionally come back to speak to the adolescent girls in the hostel about the importance of staying in the programme, making decisions carefully and staying off the streets. She had a tremendous impact on the girls, many of whom had been previously engaged in street-based prostitution and who were at risk of returning to that life.

Challenges of working with street children, including street-based sex workers

A challenge raised by NGOs specifically working with street children who are getting paid for sex work is that they do not frequently mix with other children living on or off the streets. Mustaque Ali of INCIDIN Bangladesh, Shale Ahmed of Bandhu Welfare Society and others noted that such children are not comfortable, nor always welcome at drop-in centres for other street children.²⁶⁴ The shame, stigma and isolation they experience is also imparted by other children. Moreover, as the NGO staff will agree, child sex workers may be difficult to work with and can be disruptive and have a negative influence on other children. More work is required in this area, both to develop best practices and lessons learned working with child sex workers and motivating them to find other forms of income, but also to combat the discrimination they may experience from other children.

Stopping the cycle of sexual exploitation

Several NGO and government-supported interventions seek to provide mothers and their children with safe and non-discriminatory interventions, either in separate facilities close to their mothers or safe shelters away from their mothers. What is interesting about the following approaches is how they seek to incorporate a rights-based approach to ensure that children are not discriminated against and that their right to an education is ensured.

Listening to children of sex workers for prevention of child sexual exploitation

While some mothers may not want their daughters to follow in their profession, there are many other cases whereby daughters have been initiated into sex work, for example, 'registered' on the initiative of the mother. The following is a compelling story of how an NGO was motivated to create an entirely new intervention based on the urgent request of several girls who, after learning that their friend, also a child of a prostitute, had been initiated into prostitution by her mother, were fearful that the same would happen to them.²⁶⁵

²⁶⁴ Discussion with Mustaque Ali on 25 June 2001, Dhaka, and; discussion with Shale Ahmed, 17 June 2001, Dhaka.

²⁶⁵ The following is based on discussion with Sultan Mahmud, Country Director, Save the Children Australia, 11 June 2001, Dhaka.

For several years, with the support of Save the Children Australia, Karmojibi Kalyan Sangstha (KKS), an NGO in Rajbari had been supporting a primary school outside Daulotdia brothel for children of sex workers and local children. The school followed the government non-formal primary education from Class 1-5. The children spent their days/mornings at the school then returned home to their mothers in the brothel in the evening. The girls who feared that they too, like their friend, would be initiated into prostitution went to the KKS office and explained that they did not want to go back home.

The staff and girls spoke with the mothers and it was agreed that they could stay in the office of KKS. For two years, the girls slept in the office and attended school there. The mothers visited, but the girls wanted assurance that they could trust their mothers not to initiate them in prostitution. The NGO eventually raised the funds to build a proper 'safe home' away from the brothel. The reason it was not so close was to avoid the girls being judged by their mothers' profession and their background. The girls are now in Classes 7 and 8, and the organisation recognises that they will have to move elsewhere soon.

Mothers are supposed to contribute Taka 600/month towards education and food costs of their children staying in the Safe Home and attending the local school. This is also to ensure that the mothers realise they have responsibility to their children. Nevertheless, not all mothers can pay. In addition, some of the local community parents cannot afford the fees at the school. Therefore there is a flexible payment option (pay when you can). There are drop-outs and many are compelled by their mother to become engaged in prostitution.

Currently there is no such 'safe home' for boys. Consultations with girls living at the KKS shelter home and boys living in Daulotdia brothel revealed a strong request for a similar such home for boys.²⁶⁶ Boys in particular said they did not want interventions located within the brothel, but rather outside where they can have a place to study and quiet place to sleep.²⁶⁷

Listening to children, designing an intervention following the girls' initiative is a significant good practice that could be expanded to create one such place for boys.

Children of prostitutes, ensuring their right to education first

UTSHO Bangladesh provides a day and residential school for children (both boys and girls) of working mothers, including those engaged in prostitution. It was established in 1993 in Dhaka. UTSHO aims to provide an alternative for girls who would otherwise follow in their mother's footsteps. From playgroup to Class 5, children attend the government school in the facility, but from Class 5 the children are mainstreamed in schools with other children. The aim is for all children who have the capacity to continue through university and for those who may be less academic to attend a good technical school, for example, UCEP and job placement. Interestingly, the children are not integrated in a local public school because the quality is poor.²⁶⁸ UTSHO's special emphasis is on ensuring that children receive an excellent quality of education.

²⁶⁶ Discussion with Rachel Kabir regarding findings from consultations with children held in July and August 2001, 23 September 2001, Dhaka.

²⁶⁷ Ibid.

²⁶⁸ Discussion with Mahbooba Mahmood, Project Coordinator Network Project Naripokkho and Chief Executive Director, UTSHO Bangladesh, 24 June 2001, Dhaka.

As mentioned above, the KKS school outside Daulotdia Brothel includes both children of prostitutes and children who live outside. In Baniashanta Brothel in Mongla Port, Jagrata Juba Shangha (JJS) supports a non-formal school for children of prostitutes and the local community in Class One.²⁶⁹ Children in Classes 2 and above attend local government schools in Mongla and Khulna.

Challenges and lessons learned from integrating children of prostitutes in community schools and promoting the principle of non-discrimination

NGO workers explain the difficulty of having integrated programmes whereby children of prostitutes attend schools with children who do not live in the brothel community: parents will withdraw their children. Some NGOs have found it difficult to even rent a building when the landlord knows it is for children of sex workers.²⁷⁰ Despite this enormous challenge to counter societal discrimination and isolation of children of women engaged in prostitution, there are some examples whereby NGOs have managed to integrate children of prostitutes into schools with other children. As noted by both the Country Directors of Terre des Hommes Italy and Save the Children Australia, personal influence, community acceptance and high regard for the NGO is critical for helping ensure community acceptance, trust and to promote integration.²⁷¹

Alternative means of livelihood

The Stockholm Agenda for Action seeks the promotion of "alternative means of livelihood" so as to prevent sexual exploitation. As mentioned above, many UN-supported NGO and Government interventions include a vocational training component as part of their activities and it is evident that for many children, acquiring a marketable skill leading to a good job is something that they themselves are requesting. This creates a possible contradiction between ensuring children's right to education (particularly if children do not have even the basics of reading, writing and numeracy), but at the same time recognising that for most socially and economically disadvantaged children, earning a income is critical to their immediate survival.

Vocational training for children in government institutions

Girls and boys in the Vagrants' Homes are provided with education and vocational skill training (in fact, employment or release to family are the only conditions of release). Therefore, it is of great interest to many girls and boys to learn a skill which can get them an early release. Whereas boys at the Betila Vagrants' Home were learning tailoring (on manually-operated machines), pattern cutting, hair dressing and carpentry; girls and women at the Godnail Vagrants' Home were learning embroidery and tailoring (on industrial sewing machines). All the children who manufactured saleable items were paid and saved it for their release.

²⁶⁹ Discussion with A T M Zakir Hossain, Executive Director and visit to Baniashanta Brothel on 3 June 2001, Khulna and Mongla.

²⁷⁰ Discussion with Shaheen Akter Dolly, Executive Director, Nari Maitree, 13 June 2001, Dhaka.

²⁷¹ Separate discussions with Alexander von Braunmühl, Country Representative, Terre des Hommes Italy 7 June 2001 and Sultan Mahmud, Country Director, Save the Children Australia, 11 June 2001, Dhaka.

As mentioned above, the quality of the training and its link to a secure job and income which enables one to support oneself in dignity are essential. Regrettably, the Director of the Betila Vagrants' Home said that none of the 8 boys released recently (6 to carpentry and 2 to tailoring jobs) kept their jobs.²⁷² One of the lessons Hossain Shahid Sumon from Concern Bangladesh has learned from his observations of working in the Vagrants' Homes is that the 6-month skill training is not long enough for the boys and girls to acquire the necessary skills.²⁷³ Moreover, the fact that the employers are not sensitive to the children's and women's rights, have already prejudged them as 'vagrants', pay them poorly, and treat them badly discourages the former residents from continuing to build on their skills and keep their job.²⁷⁴

For example, at the Godnail Vagrants' Home, the older girls and women may get opportunities to learn how to make garments and be placed in a garment factory job to secure their release. However, they don't earn very much working in the garment industry and are therefore more likely to return to prostitution.

Furthermore, one cannot overlook the information provided by Dr. Jana, HIV Programme Coordinator, CARE Bangladesh that many street-based prostitutes were once garment workers. While admittedly for many girls the garment industry has created a period of adolescence and independence for many that did not exist previously, it also cannot be denied that for most the work is long and exploitative, the wages low and the sexual harassment high. Positive examples of the private sector investing in its workers, including secure contracts, fair wages and earnings paid on-time are needed.

Vocational training in UN, government and NGO-supported interventions

Vocational skill training is also a feature of many NGO interventions for children who have been sexually abused and exploited and/or who are at risk of being sexually exploited. While some NGO representatives admit they would prefer girls to acquire skills other than garment-making, they admit they need to do more to challenge gender stereotypes and encourage girls to explore other skills. For example, girls living in the BNWLA shelter home learn embroidery and tailoring. Fourteen girls recently arrived to stay at an ARISE project centre in Khulna for 5-6 months training in embroidery and clothes-making; they were motivated by the opportunity to learn a skill.²⁷⁵ A previous group of girls had gone through the training and were now working in garment factories in Dhaka.

Mr Hussain, the ARISE National Project Director, recognising the need for high quality and diversified vocational training, explained that an expert in that area had been contracted for the project.²⁷⁶ That person is responsible for identifying and imparting skills for boys and girls which can lead to employment that pays relatively well, including employment as security guards (for older boys aged 16-18 years), beauty parlour workers (for girls) and other forms of service sector employment.²⁷⁷

²⁷² Discussion with Director, Betila Vagrants' Home, Manikganj, 18 June 2001.

²⁷³ Discussion with Hossain Shahid Sumon, Concern Bangladesh during visit to Vagrants' Homes in Manikganj and Narayanganj, 18 June 2001.

²⁷⁴ Ibid.

²⁷⁵ Ibid.

²⁷⁶ Discussion with Mr Dewan Zakir Hussain, Deputy Secretary, Ministry of Social Welfare and National Project Director, ARISE Project, Department of Social Services, Dhaka, 5 September 2001.

²⁷⁷ Ibid.

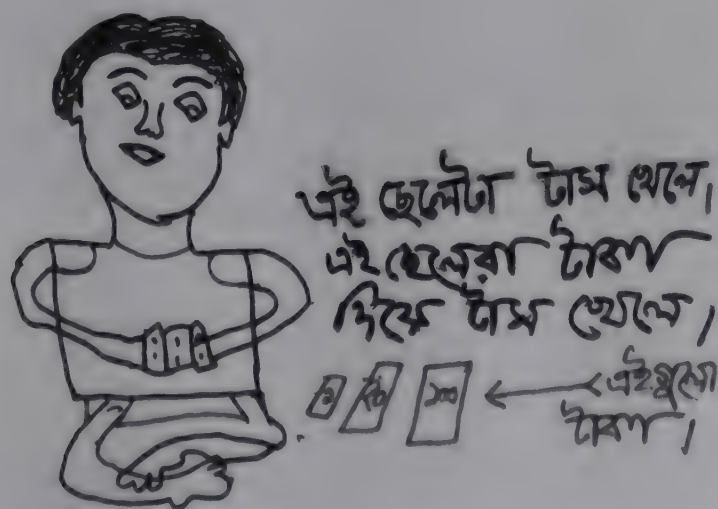
Fazlul Haque Fakir, Deputy Coordinator, UNDP Assisted Capacity Building Project explained that the project mid-term evaluation has suggested an upgrading of training opportunities from traditional (such as embroidery and sewing) to new avenues for training to increase one's income for alternative livelihoods.²⁷⁸ The project will also seek to explore job placement opportunities for those who have completed the training.

Aparajeyo Bangladesh similarly wishes to explore alternative vocational training opportunities for children on the street. One idea is to help create flower businesses (including flower-arranging) for groups of children. In its Adolescent Girls' Hostel, several girls who did not pursue higher studies are garment workers. After they move out of the hostel, the NGO helps the girls find a group house to rent. What is interesting about the girls working in the garment industry who are part of the Aparajeyo programme is that while they do not earn a lot of money, none are compelled to go back to the street, including prostitution. While recognising how long it takes, the efforts of the Aparajeyo staff to build street children's awareness, pride and confidence in themselves appears to have been successful.

Provision of psycho-social care and services

Interventions in the development of psycho-social care and services, including counselling, for children who have been sexually abused and/or exploited are relatively new in Bangladesh. In recent years, technical support for developing the capacity of NGO and government staff, particularly those who work directly with children, have been forthcoming from abroad, where capacity and expertise is stronger. As an essential first step and example of a good practice, NGOs, government and UN-supported interventions are increasingly receiving training and recognising the need for more development and capacity-building in the area of psycho-social care and support.

Of note, Child Psychologist Monwara Parveen's experience with children who have been sexually abused shows that a significant challenge is that parents, both mothers and fathers, contribute to the child's stress by thinking that all is lost for his or her future, particularly when it happens to a girl. Moreover, as Aparajeyo staff shared with the researcher, with respect to the issue of sexual abuse and exploitation, street children will rarely if ever talk to staff about it: it can take many years for children to open up because they will be judged badly if they explain they were once sexually abused or exploited.²⁷⁹



²⁷⁸ Discussion with Md. Fazlul Haque Fakir, Deputy Coordinator, UNDP Assisted Capacity Building Project, 6 September 2001, Dhaka.

²⁷⁹ Discussion with Eric Thipthorpe, Information and Publication Officer and Jahan Ara, Manager, Girls' Hostel, Aparajeyo Bangladesh, 14, June 2001, Dhaka.

For staff working with street children, including many so-called counsellors, their capacity is more recently being developed in this important and thus far largely neglected area. As a first step, the ARISE project has imparted to selected project staff basic knowledge (including theories) about counselling through a 10-week course consisting of course and field-based work.²⁸⁰ Given that many of the support staff in the drop-in centres were not previously aware of the principles and techniques of counselling, the project is tackling a previously unmet need. The aim of the counselling is to help street children develop their confidence, make informed choices, move into mainstream society, and heal themselves. The ethics and importance of maintaining a child's confidentiality is also part of the course. Those who took the course are encouraged to counsel children primarily through group work which consists of group discussion (including topics on sexual abuse, including rape), drawings, body mapping, and other activities.

Valerie Jacques, International Expert in Child Counselling for the ARISE Project is hoping that the 37 group facilitators who have received the counselling training will eventually be able to facilitate group sessions with street children. Ultimately, she would like to see how the project can help develop peer educators from amongst the children.²⁸¹ She said that Sanlap, an NGO in Calcutta, had positive experiences with developing children's capacities as facilitators and peer educators.

Community involvement

In building awareness, creating community vigilance, creating informal contacts and referral systems, the Association for Community Development (ACD), based in Rajshahi, has helped to protect and prevent children from being trafficked. While many police and NGOs working in this area have either no links to each other or adversarial ones, ACD stands out in having positive links to the police, the latter who are likely to bring lost and/or rescued children to the ACD Shelter Home. In fact, as Executive Director, Ms Salima Sarwar stated, "it was our aim from the start to involve the police. We invited them to be part of all of our work."²⁸² One challenge, however, is that transfers are frequent so they have to continually build relationships with new officers. Save the Children Australia's Country Director likewise said that frequent transfers amongst police officers working near Daulotdia Brothel makes it difficult to develop good rapport and working relationships. In Rajshahi, ACD has also developed positive relationships in the district with the local elected members of the Union Parishads and other leading community members.

Nevertheless, Salima Sarwar does still recognise that stigma and shame associated with sexual abuse is a significant obstacle to the recovery and reintegration of victims.²⁸³ Moreover, another challenge is in making elected members, and other community people aware of sexual abuse and taking initiative on such cases when they are filed. She says they may organise a *salish* but that they will ignore the rights of the women and girls and either dismiss the case or award them money as compensation.²⁸⁴

²⁸⁰ Discussion with Valerie Jacques, International Expert on Child Counselling, ARISE Project, 12 June 2001, Dhaka.

²⁸¹ Ibid.

²⁸² Discussion with Salima Sarwar, Executive Director, ACD, Rajshahi, 11 June 2001, Rajshahi.

²⁸³ Ibid.

²⁸⁴ Ibid.

Prevention and protection of children from trafficking and promotion of safe migration

With regards to the prevention of trafficking, the Agenda for Action from Stockholm encourages “gender-sensitive communication, media and information campaigns to raise awareness and educate government personnel and other members of the public about child rights and the illegality and harmful impact of commercial sexual exploitation of children”.

Efforts appear to be underway to address this gap in the area of trafficking and unsafe migration: with the support of USAID, ATSEC will undertake market research for a nation-wide awareness-raising campaign on trafficking, including information for media, presentations in schools and to conduct workshops in 20 districts.²⁸⁵ ATSEC has signed a Memorandum of Understanding (MOU) with IOM for assistance in this area.²⁸⁶ Of interest, the materials will be prototypes which can be taken up and adopted by any grassroots organisations. The components of the campaign include: school-based (including a ‘help card’ with phone numbers of key district-level officials to contact if one suspects trafficking is taking place) for school-going and drop-outs, rural and urban children, parents, teachers, and school committees.²⁸⁷

ATSEC will also support border campaigns through drama (including child drama groups, mentioned above, and adult performers’ groups), and meetings with law enforcement officials. ATSEC hopes to launch the border campaigns at the same time as the West Bengal ATSEC chapter launches theirs’ for maximum effectiveness.²⁸⁸ The campaign will also include a mobile unit that will be able to distribute leaflets and information and show videos.

The International Organisation for Migration (IOM) recognises that ‘trafficking’ is a process and that in most cases it starts with the victim’s search and need for alternative livelihoods (the appeal of and frequent need for migration) and results in deception at the end.²⁸⁹ The organisation therefore aims to provide prospective migrants with information that can help them prevent being trafficked, and to prepare them as prospective migrant workers (of which Bangladesh has many working primarily in Gulf countries and Malaysia).

It aims to create an information campaign, including the publication of articles, leaflets, broadcasting and will build the capacity of media at the local (district and thana-level). Together with other UN agencies, the IOM will work in migrant-prone districts to inform prospective migrants and their families about their rights and the problems and issues of which they should be aware (for example, exploitation in the workforce, HIV/AIDS, etc).

Moreover, IOM is working with the government to create a national plan of action on migrant workers, including implementation of the United Nations Convention on the *Protection of the Rights of All Migrant Workers and Members of Their Families* (after it comes into force).

²⁸⁵ Ibid and Discussion with Matthew Friedman, USAID, 24 September 2001.

²⁸⁶ Discussion with Mizanur Rahman, Project Director, ATSEC, 8 October 2001.

²⁸⁷ Ibid..

²⁸⁸ Ibid.

²⁸⁹ Discussion with Ruben Korevaar, Programme Officer, IOM, 17 June 2001, Dhaka.

The Centre for Women and Children Studies (CWCS) has been working to raise awareness about trafficking since 1997. Since September 2000, with the support of the European Commission, it has been specifically working in 8 northern districts, including Dinajpur, Nilphamari, Rangpur, Lalmonirhat, and Panchagarh. Its objective is to build awareness through campaigns, workshops, and dialogue with members of the community, police, teachers, journalists and police at upazilla level in trafficking-prone areas at the district, upazilla and village level.²⁹⁰ It seeks to do this through information sharing, the development of information, education and communication (IEC) materials, and the establishment of a network for combating trafficking in the northern region.

Building capacity of law enforcement officials to combat trafficking

As documented in the situation assessment and analysis, overall law enforcement is weak: both while the child is being 'trafficked', and also once the child has reached his/her destination. While noting this weakness, in addition to the government efforts, both IOM and USAID are seeking to improve the capacity of the law enforcement officials to protect the victims of trafficking.

Through its partner NGOs, IOM has begun conducting seminars with members of the police, Bangladesh Rifles and VDP Ansar.²⁹¹ IOM seeks to improve the investigation and interview techniques of these officials, and to improve cooperation and coordination amongst them to prevent trafficking and identify trafficking/illegal migration. Its ultimate goal is for information about trafficking and migration to be incorporated into the curriculum of police, VDP Ansar and BDR.

Through its partner NGOs, USAID seeks to build the capacity of legal professionals and judges to restore peoples' confidence in the legal system and to help combat impunity by sending a clear message to traffickers and other exploiters of children and women that they will be punished if they violate the law.²⁹²

The Centre for Women and Children Studies (CWCS), with DFID funding and support from the British Council, was able to undertake a pilot project for police training and community sensitisation on women and children's rights in Bogra district.²⁹³ The 5-day course comprised a 2-day session involving constables, sub-inspectors and assistant sub-inspectors; a 2-day session involving local community members, and; a 1-day session which brought both groups from police and the community together.²⁹⁴ As part of the course, a session on rape, trafficking and child sexual abuse with links to the laws and procedures for filing cases were included.²⁹⁵ Since September 2000, CWCS has been undertaking similar types of police and community sensitisation workshops in Jessore and Rajshahi with the support of UNIFEM.²⁹⁶

²⁹⁰ Discussion with Professor Ishrat Shamim, 3 October 2001, Dhaka and Ishrat Shamim, *Proceedings of the Meetings and Workshops on Trafficking in Women and Children*— January– June 2001 (CWCS: Dhaka, September 2001), p. 1.

²⁹¹ Discussion with Ruben Korevaar, Programme Officer, IOM, 17 June 2001, Dhaka.

²⁹² Ibid and Discussion with Matthew Friedman, Technical Advisor, Population, Health and Nutrition Office, USAID, 24 September 2001, Dhaka..

²⁹³ Discussion with Professor Ishrat Shamim, 3 October 2001, Dhaka and CWCS, *Proceedings of the Police Training and Community Sensitization Workshop on Women and Child Rights*— February– May 1999, Bogra.

²⁹⁴ Ibid.

²⁹⁵ Ibid.

²⁹⁶ Ibid.

Mapping and matrices for improved coordination to combat trafficking

An extremely useful means to identify where organisations are working, what they are doing, and with whom they are working is to utilise mapping and Geographic Information System (GIS) technology. This is also a useful means by which to identify what interventions are overlapping, and where there are gaps. For example, under the UNDP-supported, 'Bangladesh AIDS Prevention and Control Programme' a GIS was done on brothels in Bangladesh.²⁹⁷ The mapping shows the brothels' proximity to police and health complexes (including hospitals), family planning centres and outlines of the brothels and room layouts.

A similar mapping exercise has been undertaken for all major HIV/AIDS prevention activities in Bangladesh and it shows which NGOs are working where, and what types of interventions they are undertaking (for example, peer education, condom distribution and community outreach/awareness).²⁹⁸

One of the 5 approaches by USAID to combat trafficking is to strengthen networks, which involves creating an inventory/catalogue of NGO interventions to identify what is being done and by whom and the lessons learned.²⁹⁹ An additional aim of strengthening networks is to improve coordination, identify lessons learned and avoid duplication. USAID is also helping to implement the 'Agenda for Action against Commercial Sexual Exploitation' through the creation of a database on children and women who have been trafficked, including their profile, how they were trafficked etc.³⁰⁰ With regular updates, the database may be able to identify possible changes in the means and methods by which children are trafficked. If its findings are concretely linked to influence prevention activities, it may contribute to better targeted interventions for at-risk and vulnerable people, including children.



²⁹⁷ Urban Community Health Programme, *Geographic Information System (GIS) on Brothels in Bangladesh* (Dhaka: Bangladesh AIDS Prevention and Control Programme, supported by UNDP, December 1998).

²⁹⁸ Social Marketing Company, *Mapping Major HIV/AIDS Harm Reduction Activities in Bangladesh* (Dhaka: Social Marketing Company, March 2000).

²⁹⁹ Presentation by Matthew Friedman, Programme Coordinator, Population, Health and Nutrition Team, USAID to Women's Advancement and Gender Equity LCG, 20 May 2001, Dhaka.

³⁰⁰ Ibid.

Also with regard to anti-trafficking activities, a matrix prepared by the ILO (Informal Donor Group on Trafficking, jointly with IOM), identifies the funding agency, project title and duration, activities, geographical coverage, partner, status and contact details. While more simple than the mapping, it is an informative document that identifies the main actors, activities and their status for combating trafficking.

As mentioned in the matrix, from newspaper reports and data compiled over a 10-year period, an IOM-supported study has identified trafficking routes, including maps.

For those organisations interested in holistic and integrated approaches (for example the sustainable livelihoods approach) to combating child sexual abuse and exploitation, including trafficking, the GIS, mapping, a database and matrices can identify the missing links and help project officers identify strategies to improve on existing programmes, and bring about more linkages for strengthened interventions.

Promoting children's creative expression, rights and leadership

As explained in the Government's First Periodic Report to the Child Rights Committee, children's freedom to express themselves through artistic media is somewhat limited due to the impact of prevailing cultural and social values on children's home and school environments.³⁰¹ This is especially the case for children from disadvantaged families who may have fewer opportunities for cultural and artistic expression.³⁰² This situation is, however, changing with parents becoming more used to children speaking out on a variety of topics, and active and creative processes becoming a normal part of learning for children.³⁰³ Such activities may also promote psycho-social recovery in children who have experienced sexual abuse and/or exploitation.

Child drama and theatre groups are a highly innovative and participatory approach to impart awareness, knowledge and skills to other children about their rights, including the dangers of sexual abuse and exploitation. Those children who participate have an opportunity to express and develop their own creative talents, and in so doing are treated with respect by their peers and adults, become self-confident, and develop their communication and leadership skills. Twenty-three children living in the Lalkhan Bazaar, Pora Colony Slum in Chittagong annually audition and are selected to take part in the Bangladesh Institute of Theatre Arts (BITA) theatre group. Resource Bangladesh, based in Dhaka similarly has its own child drama group. Many of the children combine work with non-formal education. Interacting with others, motivating others and learning about child trafficking and other dangers is what children in the BITA programme said they like most about performing.³⁰⁴ Through entertaining stories that the children write and act themselves, they teach children what to do if a stranger approaches them, they get lost, or if they find that a friend is missing. The children watching the performance say they learn more through the theatre than if someone else tells them.³⁰⁵ BITA also seeks to impart cultural exchange and rights-based training to other NGOs working with children around the country.

³⁰¹ Ministry of Women and Children Affairs, Final Draft First Periodic Report of the Government of Bangladesh under the Convention on the Rights of the Child (Dhaka: GOB, December 2000).

³⁰² Ibid.

³⁰³ Ibid.

³⁰⁴ Discussion with child theatre group participants, BITA theatre group, Lalkhan Bazaar, Pora Colony Slum, Chittagong, 26 May 2001.

³⁰⁵ Discussion with children watching the performance, Lalkhan Bazaar, Pora Colony Slum, Chittagong, 26 May 2001.

Within the confines of BNWLA's shelter home for boys, girls and women, the staff try to provide as many cultural activities as possible for the children who may have to reside there for long periods of time while families are found and/or legal cases draw out. Playing outside and outings are not as frequent as either the staff and children would like. This is a challenge for BNWLA, which recognises the difficulty of keeping children confined and of the frustration it causes for many. For many of the girls, education that leads to a good job or marriage are the only options as family reintegration is difficult and sometimes unwise. Nevertheless, not only is there strong emphasis placed on education, but also the children take classes in dance and singing, which they seem to enjoy and which are opportunities that many would not have had in their previous home environment.

As recognised by the Committee on the Rights of the Child, there is a lack of widespread awareness of children's rights and professional groups working with and for children are insufficiently trained in children's rights.³⁰⁶ Since the Initial Report of the Government of Bangladesh was considered in May 1997, considerable efforts have been undertaken to promote and disseminate information about children's rights, including training to concerned government officials, police officers, and other law enforcement officials. Nevertheless, much remains to be done.

A particularly innovative and participatory approach to imparting information and messages about children's rights is one which uses children as co-facilitators and facilitators of child rights' trainings based on the Convention on the Rights of the Child.³⁰⁷ Two children (alternating from amongst the 15 child facilitators) and two adults undertake child rights trainings for other children. Resource Bangladesh, which started this programme in 2001 with the support of the Ministry of Women and Children Affairs (MoWCA) and UNICEF encourages the children themselves to develop and implement the training modules. One called 'pain' includes sexual exploitation, but other themes which include child labour, trafficking, child marriage, street children, children and media, and birth registration are presented and discussed. Children who participate in the trainings are from mixed backgrounds, comprising government and non-formal school-going children, child labourers, street children and others. By mixing up the participants, the training also seeks to build solidarity amongst the children and lessen the discrimination that socially and economically-disadvantaged children may experience from wealthier children.

In addition to spreading messages and information about child rights, those that participate in the trainings (subsequently called 'Child Advocates') are responsible for sharing their experiences and knowledge with other children in different forums. They are additionally linked with the Children's Congress through the election amongst themselves of 'Children Leaders' (explained below).

³⁰⁶ Par. 13, CRC/C/15/Add.74, 6 June 1997.

³⁰⁷ Discussion with Children's Congress members of Resource Bangladesh, child leaders, drama group members and editorial board of Resource Bangladesh and Mizanur Rahman on 25 June 2001, Dhaka.

Another example of how children are provided with opportunities to develop their leadership skills and express their views is their involvement in the Bangladesh Shishu Adhikar Forum (BSAF). BSAF is a network of 133 NGOs working with or for children's rights, established in 1999. Among other activities, it publishes a directory on NGOs engaged in child rights and an annual report on the situation of children in Bangladesh. It supports research, undertakes district awareness-raising activities on trafficking, and seeks to build capacity in its members on child rights, the provision of psycho-social care, etc. Of particular interest, regarding its management, an Advisory Committee consisting of 9 prominent officials and an Advisory Committee consisting of 9 children (elected from amongst its membership organisations) sit for a 2 year term and meet quarterly.³⁰⁸ The children include those from social and economically deprived backgrounds. Their views are incorporated into the workplan for the forum.³⁰⁹

Creating space for children to learn about their rights through their peers, and providing opportunities to build children's leadership skills and build solidarity and confidence amongst themselves has helped protect the rights of other children. What is interesting about the group-based approach is that there is strength and unity in numbers. While the voice of an individual child may not be heard, and which would perhaps put him or her at risk of punishment, when children are able to form a group, they have managed to change the status quo, protect their rights as well as their friends'. In so doing, they are building their own self-confidence, leadership, negotiating and communication skills. For some, as an example provides below, they are even becoming aware of their civil and political rights.

The Children's Congress, initiated by Resource Bangladesh, is one such effort. Of 12 participating NGOs in 3 Divisions (in Dhaka, Chittagong, Rajshahi), a minimum of 10 children are elected from each organisation as 'Children Leaders'. Among the 'Children Leaders', an Executive Board of 11 members are elected and sit for a 2 year term. They attend and participate in the monthly (or as needed) Children's Congress and are responsible for keeping the other children informed and their views represented. Member NGOs include Nari Maitree, Aparajeyo Bangladesh, BNWLA and Phulki. The children are between the ages of 11 and 18 years and include a mixed group of children who are working, living on the street, children who are being sexually exploited and children of women engaged in prostitution. Five of the children are child journalists with ETV's 'Mukto Khobor' programme.³¹⁰

As mentioned above, one example provided by 'Children's Leaders' in the Children's Congress was of their efforts and success at preventing an early marriage: after learning of the proposed marriage they went to the house of the girls' parents to try to change their minds.³¹¹ When that failed, they went to the community leaders, who also did not listen to them. Finally, they went to the police, explained the story, and the police came and stopped the marriage from taking place. Other examples of their leadership efforts include hosting high-level meetings and press conferences on topics which have included sexual abuse and exploitation, with recommendations presented to the Prime Minister, Home Minister, and others.

³⁰⁸ Discussion with Muhammad Asgar Ali, Director, Bangladesh Shishu Adhikar Forum, 7 October 2001, Dhaka.

³⁰⁹ Ibid.

³¹⁰ 'Mukto Khobor' is a news programme by and for children aired on Ekushey Television. It receives support from Save the Children Sweden and UNICEF Bangladesh. The child journalists include children from both advantaged and disadvantaged backgrounds.

³¹¹ Ibid.

Groups of girls in the Centre for Mass Education in Science (CMES) Adolescent Girls' Programme, BRAC's Adolescent Peer Organised Network (APON), and Association for Community Development's (ACD) adolescent girls groups in Rajshahi have similarly developed their self-esteem and leadership skills.³¹² They learn about safety and protection issues, including trafficking and sexual exploitation, but also are provided with information on health, including reproductive health, gender marriage and inheritance laws, and other important issues that they do not learn from school or their parents. They take pride in this knowledge and some of the girls have helped intervene to stop child marriages from taking place. Others, however, have through their community-level activities (for example road repair) challenged gender stereotypes and in so doing have demonstrated that girls make a difference, and that they are not liabilities to their families and communities and can be self-reliant.³¹³ Such information and skills may serve as protective factors against child sexual exploitation.

Last 3 March 2000, more than 500 members of Shishu Clubs (children of sex workers of Daulotdia and Kandapara Brothels), organised their first conference and called upon the government to protect their rights. They protested against the stigma and separation they experience from the rest of society. A Member of Parliament, NGO representatives working in the brothel and INGO representatives also spoke at the meeting. The children, particularly the girls, requested the creation of more safe homes so that they could have other choices than follow in their mothers' footsteps. Boys too voiced their frustration at the stigma they experience when they try to leave the brothel and work outside.

Overall, what is compelling about these approaches is how as networks/groups, children have made substantial contributions to other children, their families and communities and, in so doing, are being taken seriously by adults. Although there is no known study, one believes that empowered and confident children who know their rights are less likely to be sexually abused and/or exploited. Moreover, it is also believed that those who have good support networks of other children may be able to resist such violations of their rights and/or seek the support of other children should such violations occur or should they be at risk.



³¹² BRAC's APON programme and CMES' AGP are, in part, supported by a Department of Women's Affairs, Ministry of Women and Children's Affairs and UNICEF-supported project, 'Empowerment and Protection of Children and Women'.

³¹³ See CMES, *Adolescent Girls Power* (Dhaka: CMES, March 2000).



Chapter 4 Recommendations

Over the course of writing this report, programme and project officers, officials and others from the government, NGOs, INGOs and UN agencies have been very candid about the gaps and challenges which exist in efforts to combat sexual abuse and exploitation of children in Bangladesh. A number have been particularly forthright about their own interventions' weaknesses and efforts to improve on them. One theme that appears to cut across most interventions is the need for more enhanced cooperation and coordination to ensure that a child rights/human rights approach is incorporated and maintained throughout all efforts to combat sexual abuse and exploitation. The following recommendations have been identified.

Research and documentation

The link between child sexual abuse and sexual exploitation needs to be further explored in Bangladesh for the design of strategies and interventions. Most studies have a small sample size and were carried out over a short duration: there is a need for more updated information, particularly on the prevalence and extent of child sexual abuse. Overall, most research lacks gender sensitivity and in many cases very little is known about the impact child sexual abuse and exploitation has on boys and its impact on girls. More focus on the construction of masculinity is also required and this should include a close examination of parenting practices, particularly those that are discriminatory and place children in a position of vulnerability or exposure to sexual abuse and exploitation. While some research has compiled information on the perpetrator of child sexual abuse and exploitation, more information is required which could influence interventions focusing on prevention.

The link between insecure working and living conditions and sexual abuse and exploitation also needs further exploration. Also noting that many interventions in the area of vocational training encourage girls to develop skills in gender stereotyped fields, the research should include a close examination of how the subordinate position of girls and women in both society (including the workplace) and in law and policy contributes to their abuse and exploitation.

With only a couple of exceptions, none of the reports look at the vulnerability of Bangladesh's ethnic and religious minorities (including displaced Biharis) to child sexual abuse and exploitation, including trafficking. The absence of information goes against the spirit of the CRC to ensure that the rights of all children are protected and promoted. Moreover, the researcher was unable to identify any efforts to make children of ethnic and religious minorities aware of sexual abuse and exploitation. Just as the principle of non-discrimination must be applied in research and documentation, so too must it influence the design and implementation of interventions.

Use of mapping and GIS technology

It may be useful to explore how mapping and GIS technology can help ensure that unnecessary duplication and overlap do not exist, or are reduced in efforts to secure the rights of children from sexual abuse and exploitation, and promote coordination and cooperation.

Promotion of education and alternative livelihoods

More systemic and coordinated exploration is required to identify how good quality education can be linked to more innovative livelihoods training that builds children's knowledge and skills, but also their self-esteem, confidence and assertiveness. While recognising that children themselves must be able to choose for themselves which types of skills they would like to learn, they must first be given options that are not gender stereotyped. To do this requires more critical reflection on what children are being taught and how it can be made attractive and appealing to them. An exploration is required into the role of the private sector in contributing to children's development and the prevention and protection of children from sexual abuse and exploitation. Internship and apprenticeship programmes for adolescents in new areas, including computers and other kinds of electronics, journalism photography and fashion design (rather than strictly garment manufacture) could be explored. Ensuring that they are treated with respect and dignity in the workplace is also essential, particularly for children who have low self-esteem and who are at risk of returning to more exploitative forms of employment. Such efforts require sensitisation, training and capacity-building of employers to be respectful of children's rights and potential.

Awareness-building for working children

Working children need to be informed about sexual abuse and exploitation. From July 2001, Ain O Salish Kendra (ASK) has begun providing information about sexual harassment in the workplace to groups of 50 garment workers (15 years old and above) in Dhaka.³¹⁴ They learn about the law (including Section 10 of the *Nari O Shishu Nirjaton Domon Act, 2000*), how to prevent sexual abuse both in the workplace and to and from work, and legal referrals on where to go and who to contact if it does happen.³¹⁵

Child Sexual Abuse: Need for more prevention and awareness activities

Creating awareness in future parents and new mothers and fathers when they go to government and NGO health facilities is one such strategy that must be taken to national scale for the prevention of child sexual abuse; the Ministry of Women and Children's Affairs 'early childhood development' programme may be another means to build parents' awareness about child sexual abuse and ensure they are vigilant with their children and act upon behavioural problems that may be the impact of sexual abuse. Information about child sexual abuse should also be in the school curriculum, as this is one means by which to make children aware.

Making children aware of their rights, body mapping exercises that enable children to learn about acceptable and not-acceptable touches and other such activities appropriate to the age and maturity of the children are urgently required. There are many creative and preventative efforts, however, they are limited in their scale and not mainstreamed in government and non-formal school curriculum.³¹⁶

³¹⁴ Discussion with Khurshed Erfan Ahmed, Director, Child Rights and Training Unit; Saidur Rahman, Deputy Director, Training; Md. Moqsud Maleque, Coordinator, Child Rights Unit; Shilpi Choudhury, Researcher, Research Unit; Dilruba Haque Papia, Advocate, Legal Aid Unit, and; Selina Akhter, Advocate, Ain O Salish Kendra, 8 October 2001, Dhaka.

³¹⁵ Ibid.

³¹⁶ Ain O Salish Kendra has designed a sex education manual for adolescents which includes information about puberty and reproductive health. While not specifically raising the issue of sexual abuse, teachers who will introduce the manual in piloted government and non-formal schools will raise the issue of 'acceptable' and 'not acceptable' touch to children. [Discussion with Khurshed Erfan Ahmed, Director, Child Rights and Training Unit, Ain O Salish Kendra, 8 October 2001, Dhaka].

The Government Servants (Discipline and Appeal) Rules, 1984 moderates the conduct of the civil servants, however, it is not specific with respect to sexual abuse, including harassment. Teachers need to be governed by a code of conduct and children must be aware of it and how to respond if it is not respected. Similarly, workplace guidelines regarding sexual abuse in the private sector must be drafted and made known to all staff, especially upon joining.

Television programming for children

Children in Resource Bangladesh's drop-in centre said they enjoy television, especially cartoons and for those who do not have televisions, they watch the one at the centre. They said there is no Meena episode on sexual abuse or trafficking, but thought it would be good idea for one to be developed.³¹⁷ While many of the children interviewed said they themselves did not have televisions in their homes, they do have opportunities to watch television at NGO drop-in centres.

ETV's *Mukto Khobor* programme which is supported by Save the Children Sweden and UNICEF Bangladesh trains and builds up child journalists. It is a potential means by which children, using television as a medium, can inform other children about sexual abuse and exploitation, how they can protect themselves and to whom they should go if it happens to them.

Integrated approaches to combat child sexual abuse and exploitation

Creating more synergies between anti-trafficking efforts and interventions to improve the quality of children's education (particularly girls who are more vulnerable to sexual abuse and exploitation through trafficking) and skill training with links to non-exploitative forms of work that build self-esteem and confidence is another means by which to address the root causes of trafficking and migration.

Moreover, with regard to breaking the cycle of girls' entry into brothel-based prostitution, one cannot address the rights of children of prostitutes without also addressing the discrimination experienced by their mothers. More work is required in this area to overcome the discrimination, including lack of burial plots, and inability to practice mainstream religion with other community members.



³¹⁷ Discussion with children at Resource Bangladesh drop-in centre, 25 June 2001, Dhaka.

Promoting adolescent boys' groups

Many children, especially those from socially and economically disadvantaged backgrounds have little, if any privacy and being provided with opportunities to meet and talk at their own leisure with friends should have more value. Noting that there are more adolescent girls' groups than boys', it is worthwhile to explore how boys can also be provided with space to discuss issues freely with other boys their age, develop their communication and leadership skills and self-esteem. Just as girls learn about issues not taught in school or from their parents, so too can boys improve their knowledge about health, including reproductive health and sexuality, gender discrimination and how it affects them, and other issues. Moreover, as potential abusers and/or exploiters of girls, adolescent boys should also learn about their rights, the dangers of unsafe sex, laws, girls' and women's rights. CARE's drop-in centre for men and boys in Jessore, the Dhaka Shishu Hospital's work with boys aged 16-18 years old in a nearby bustee (slum colony), CMES' Adolescent Girls Programme which now includes boys as members and ACD's adolescent and young men clubs' are a few examples.

Coordination, cooperation and collaboration

In her concluding remarks to the Commission on Human Rights in April 2001, Ms Calcetas-Santos, UN Special Rapporteur on Child Prostitution, Sale of Children and Child Pornography urged improvements in the system of networking amongst themselves and between UN departments, agencies, NGOs and States to avoid overlap in mandates of various agencies and human rights experts.³¹⁸ She also urged NGOs to develop expertise in particular areas, rather than try to address all the rights of children and noted that donors have an important role to play in this regard.³¹⁹

Observations and discussions with various project personnel and officials in Bangladesh also bear this out. The researcher has noted that there are many interventions with overlapping purposes and functions. Moreover, INCIDIN Bangladesh acknowledges the importance of establishing personal contacts with the senior officials of other organisations to whom it refers some of the children. In its annual report it explained that for medical services in particular, in order for children to receive services from other government and NGO facilities, direct contacts had to be established and in some cases fees paid.³²⁰ Lawyers with Ain O Salish Kendra (ASK) similarly mention how its relationship with police has been improving: now, when children are picked up by the police in those stations where they have established contact, the police are more likely to contact one of the lawyers at ASK for assistance, including legal aid or placement in the NGO's shelter home rather than alternatives which could, in the past, have involved placement in safe custody in prison and/or being sent to the Vagrant's Home.³²¹

³¹⁸ Statement of the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography, Item 13, Rights of the Child, Ms Ofelia Calcetas-Santos, 10 April 2001, and report E/CN.4/2001/78

³¹⁹ Ibid.

³²⁰ INCIDIN Bangladesh, 'Project Annual Progress Report' (January 2001) p.7.

³²¹ Discussion with Dilruba Haque Papia, Advocate and Selina Akhter, Advocate, Ain O Salish Kendra, 8 October 2001, Dhaka.

While with optimism one notes that the rights of a previously under-valued and profoundly discriminated group of children are receiving attention and action that is overdue, conversely one notes the potential for overlap, duplication, and undermining of other efforts. At best this is a waste of resources, at worse, however, it can undermine the work of all NGOs and their own 'good practices'. At times, such overlap and differences in working methods can also undermine the relationships and trust built up by the other NGO and its client(s).

Just as the 'Core Group' of NGOs, INGOs, UN agencies and the Ministry of Social Welfare have been working under the leadership of the Ministry of Women and Children Affairs to create a *National Plan of Action against Child Sexual Abuse and Exploitation, including Trafficking* it would be worthwhile to explore how such a group, and/or subsidiary working groups of the key donor and implementing organisations could maintain this link for sustained coordination and collaboration. Moreover, to ensure that the forthcoming National Plan of Action is not simply shelved, a working group of members representing the government, NGOs, INGOs and UN agencies should be constituted to regularly review progress, lessons learned, challenges and obstacles to implementation. Resource allocation and priority areas should be decided upon in consultation with all stakeholders, particularly the Core Group members.³²²

The establishment of the National Task Force to combat child trafficking to be established in the Ministry of Home Affairs could be provided with the scope to approve all new multilateral anti-trafficking efforts initiated within the country to ensure that they are in accord with the project and strengthen already existing efforts.

Ideally, key donors and organisations working to combat child sexual abuse and exploitation should agree, in principle, that before undertaking new initiatives and entering into new partnerships, they will share their plans and be willing to receive critical feedback from the group members. Matrices such as the one developed by the ILO for anti-trafficking efforts can be a useful starting point. Sharing and coming to a consensus on what is meant by various intervention strategies, including; 'counselling,' 'psycho-social care and services', 'peer education', 'life skills' and 'livelihoods' is another means by which organisations can truly understand what each other are doing, the gaps and how to improve on them. An initiative of IOM to invite key implementing organisations and donors to discuss various conceptual and definitional aspects of 'counter-trafficking' is one such example.³²³

³²² Discussion with Tine Staermose, Chief Technical Advisor, ILO-IPEC, 8 November 2001.

³²³ Meeting held at IOM on 8 October 2001, Dhaka.

Monitoring and evaluation

Monitoring and evaluation is required to determine to what extent existing programmes are working to combat child sexual abuse and exploitation. For example, how successful are current efforts to discourage female children of sex workers from entering their mothers' profession? While many NGO and government efforts are creating adolescent girls and boys' groups as forums for them to exchange information and develop their communication and leadership skills (indeed it is one of this reports' recommendations), research and monitoring to assess how elevating a child's self-esteem and confidence can be a protective factor in preventing child sexual abuse and exploitation is needed.

It also does not appear that there is any monitoring taking place to ensure that children's rights are being protected and promoted while in institutional custody, including Shelter Homes, Vagrants' Homes and other government and NGO institutions. Despite the existence of rules to monitor the conduct of government servants, it is not evident that protective measures are in place to ensure the accountability of staff should evidence of abuse and/or exploitation be suspected or discovered. It is also not evident that children are aware that they have the right not to be abused and/or exploited while in institutional care and this situation should be remedied.

Anti-trafficking efforts at the regional level

As recommended by the UN Special Rapporteur on Violence Against Women, Ms Radhika Coomaraswamy, the definition of trafficking contained in the Draft *SAARC Convention for Preventing and Combating Trafficking in Women and Children for Prostitution* should be brought into accord with the definition contained in the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, ideally before the former Convention is signed.

However, if the definition cannot be changed before the SAARC Convention is signed which appears more likely, to ensure that the rights of women and children are not further undermined, advocacy and pressure must be put on States Parties to ensure that the definition is amended to be in accord with the above protocol.

Many of the Bangladeshi girls who have been rescued from sexual exploitation do not have any documentation, such as identity cards and passports to prove their identity, including citizenship. This makes it difficult for embassies to facilitate their repatriation. Intensified diplomatic-level efforts are required amongst the SAARC countries to meet with local police, coordinate investigations and facilitate with recovery and repatriation procedures that are not further violative of the victims' rights.

Law enforcement

While the syllabus of all police and prison officials includes information about children's rights, more could be done to create child-friendly police officers. Mr Ashiqul Huq Chowdhury, Joint Secretary, Administration, Ministry of Home Affairs mentioned that children and women victims of sexual abuse and exploitation may be more comfortable speaking with female police officers, and/or in the presence of females than males alone.³²⁴ He contemplated training officers in sensitivity to victims of sexual abuse and exploitation and also mentioned that the Ministry of Home Affairs is trying to increase the number of women, to reach a minimum of 15% of female police officers in the force.

³²⁴ Discussion with Mr Ashiqul Huq Chowdhury, Joint Secretary, Administration, Ministry of Home Affairs, 27 June 2001.

With respect to the issue of trafficking, more efforts appear concentrated on advocacy and awareness-raising, rather than law enforcement. While recognising that the new project of the Ministry of Women and Children Affairs, in collaboration with the Ministry of Home Affairs and NGOs does aim, in part, to address this weakness it is too early to determine its effectiveness. The following is intended to remind those implementing anti-trafficking initiatives of the need to ensure that impunity is addressed.

As pointed out by the South Asia Human Rights Documentation Centre (SAHRDC) in a recent review of anti-trafficking efforts,

[u]nder the status quo, trafficking is a low risk, highly lucrative venture for those in control. Unless the stakes are seriously raised, not only in countries into which people are trafficked but also in countries in origin and transit, there is no real disincentive for those profiting now or potentially profiting in the future. **No matter how vigorous the efforts to change community norms and empower potential victims, without a real fear of capture, prosecution and conviction these traffickers will continue on with business as usual. It is only once the climate of impunity is destroyed that social support and mobilisation programs will really be able to make an impact [my emphasis].** All of the root causes of trafficking must be addressed, but with finite resources available, countries need to act strategically in approaching the problem.³²⁵

The establishment of the National Task Force to combat child trafficking to be established in the Ministry of Home Affairs could be provided with the scope to approve all new multilateral anti-trafficking efforts initiated within the country to ensure that they are in accord with the project and strengthen already existing efforts.

To address the problem of frequent transfers of law enforcement officials which makes it difficult to sustain capacity-building efforts, as recommended for anti-trafficking efforts in Nepal, the possibility of choosing officers for an anti-trafficking assignment for a specific period of time may help to ensure continuity and stability within the programme.³²⁶

Combating the entry of girls into brothel and street-based prostitution

What is striking in most efforts to stop the entry of girls into brothel-based and street-based prostitution is the absence of a link to the role of police and other law enforcement officials, *sardanis* and *dalals*, and Notary Public in maintaining the status quo. As is known from documents of brothel-based sex workers, many of the 'women' possessing affidavits certifying that they are above 18 years and have entered prostitution willingly are in fact girls who were sold and/or brought to the brothel and not permitted to leave. This is strictly against the law, however, with few exceptions, the practice continues with impunity.

Given that there are now a number of membership organisations of sex workers, including; Ulka; Durjoy (including street-based prostitutes in Dhaka); Nari Mukti Sangho (in Tangail), Mukti Mohila Samita (MMS in Daulotdia); Akshoy (consisting of evicted Tanbazar and Nimtoli prostitutes), and; Shonghoti (consisting of 86 human rights NGOs, including 4 sex workers' organisations), it may be worth exploring how they can help stop children from being sexually exploited and/or help increase the age of girls becoming involved in brothel and street-based exploitation.

³²⁵ South Asia Human Rights Documentation Centre, *Combating Trafficking The US Initiative Well Intentioned Bad Design* [New Delhi], HRF/24/00, 4 August 2000.

³²⁶ Correspondence with Ravi Nair, Executive Director, South Asia Human Rights Documentation Centre, New Delhi, India, June 2001.

As noted by Thérèse Blanchet, it is in the interest of the older prostitutes to stop the entry of young girls into the profession as it increases competition for them.³²⁷ She adds it is not, however, in the interest in the *sardani* (madam) or *bariwalli* (woman who owns/rents rooms/houses to the girls and women engaged in prostitution) whose earnings would drop significantly as a result.³²⁸ Thérèse Blanchet mentioned that there is some evidence that at Daulotdia it is increasingly risky to bring young girls into the brothel as those involved (the trafficker, *dalals* and *sardanis*) may be arrested. Moreover, she explains that in Sonagachi brothel in Calcutta, girls aged 12-13 years are now seen as too young and not bought as *chukris*, but girls 14 years and older— who are by that age still socially and culturally accepted as women are still bought.³²⁹

Recovery and reintegration

According to the Stockholm Agenda for Action, non-punitive approaches to child victims of sexual exploitation, including an assurance that judicial procedures do not further aggravate the trauma already experienced are prioritised for recovery and reintegration.

Regrettably, there are very few best practices in recovery, rehabilitation and reintegration of child victims of trafficking and former child sex workers and others. The high likelihood that they will not be accepted by the community discourages them from returning. As Thérèse Blanchet found from her on-going trafficking research, one girl who was trafficked for prostitution in the Middle East returned to her community, but did not reveal what had happened to her because she knew the consequences of her speaking out would be worse than keeping the information a secret.³³⁰

With respect to child victims of trafficking, not all repatriation efforts are voluntary. Moreover, the challenge of reintegration is that the child is frequently not accepted back by the family. The child's past is easily discovered and one is stigmatised for life.

Of interest, under the ILO-IPEC TICSА project, a rights-based rehabilitation component will be incorporated in all stages of rescue, recovery and reintegration. ILO-IPEC is working with its partner NGOs, for example, BNWLA, to establish guidelines so that rescue efforts are rights-based. Funds are also provided to partner NGOs for the provision of legal aid. The position of ILO-IPEC is that until such rights-based guidelines are created, neither rescue nor reintegration of child victims of trafficking can take place safely.³³¹

Advocacy for behaviour change and capacity-building in counselling skills and psycho-social care and services in front-line staff working with children who have been traumatised, abused and/or exploited is required. Moreover, a comprehensive legislative review, identifying weaknesses and gaps in existing legislation and policies which inadvertently lead to a penalisation of the victim is required with commitment from the government that the key gaps will be addressed through reforms consistent with the CRC and Agenda for Action.

³²⁷ Discussion with Thérèse Blanchet, 24 September 2001, Dhaka.

³²⁸ Ibid.

³²⁹ Ibid.

³³⁰ Ibid.

³³¹ Discussion with Tine Staermose, Chief Technical Adviser, TICSА, ILO & IPEC, 8 November 2001, Dhaka.

Institutional and legislative reform

The Vagrancy Act is incompatible with both the Stockholm Agenda for Action and the CRC. Rather than amending the Act, its very existence must seriously be questioned and advocacy efforts should be directed at its repeal. As mentioned earlier, many children who are arrested do not fit the definition of a 'vagrant.' Many have parents, but police rarely help children find their parent(s) before arresting them.

The Vagrancy Act, 1943 has no provision for legal representation and reportedly, the Magistrate rarely asks the children who have been arrested any questions before determining them to be 'vagrants' and sending them to a Vagrants' Home. While in the Vagrants' Home, they are provided with education and skill training, however, there are no provisions for psychological care for those in need. While NGO social workers in the Vagrants' Homes try to locate children's parents (one of the two conditions required for their release), it is noteworthy that this is rarely done immediately after the child is picked up and more likely to remember where he/she lives. While in custody, especially those who are living with older children and adults, there is risk of further sexual abuse and exploitation, not to mention corporal punishment.

Short-term provisions for sensitising the staff of Vagrants' Homes in children's rights, and the provision of psychosocial care and services for residents, and stepped up efforts at family reunification are required, and have already been recommended in a report commissioned by the Ministry of Law, Justice and Parliamentary Affairs.

Moreover, Section V of the Children Act, 1974, and the *Nari O Shishu Nirjaton Doman Act*, which provide for certified institutes or approved homes for children found homeless, destitute, requiring 'safe custody' and others must be reviewed.

Finally, while recognising that the Shelter Homes are often safer alternatives than jails and that many NGO Shelter Homes offer residents multiple options for continuing their education, learning a skill, engaging in cultural activities, access to counselling, nutritious food and good health care, it is also to be noted that children are not given a choice about being placed in them. While admittedly, the officials of the Shelter Homes are limited by law from allowing the children to leave the premises, albeit for their own safety and protection, alternatives to this system, which are not further violative of children's rights must be explored.



6. Concluding Remarks: A child rights-based approach

In conclusion, according to the Committee on the Rights of the Child (the Treaty Monitoring Body for the CRC), there is a dearth of awareness about the concept of child rights in Bangladesh and this extends throughout society.³³² While commendable efforts have been underway to put the Committee's recommendations into action through advocacy, training and technical support to Government, NGOs and others, much remains to be done.

Children are not widely viewed as being 'holders' of rights, in particular, socially and economically disadvantaged children who are more at risk of sexual abuse and commercial sexual exploitation are often viewed by the community (including children), government, even NGOs, as objects of charity rather than as holders of rights.³³³ This inevitably undermines their rights. For example, economically and/or socially disadvantaged children may be provided with opportunities to learn a skill/trade without first ensuring that their right to an education is met. Many children may therefore not know even the basics of reading, writing and numeracy, let alone the other valuable lessons a child acquires through schooling.³³⁴

Much more must be done to address the root causes of gender discrimination, which puts girls at greater risk of sexual abuse and exploitation, early marriage and other forms of violence. This requires advocacy for behaviour change and capacity-building of law enforcement officials for improved implementation of the laws. Lack of law enforcement, including impunity, contributes to the persistence of such violations of girls' rights.

Less is known about the situation of sexually abused and exploited boys and the impact of their psychological well-being. Not only may they be reluctant to speak about such abuse, especially when the abuser is a man or older boy, but for those who are questioning their sexuality, there are few people and/or organisations with whom they can speak freely and without judgement. Gender disaggregated research is required.

While some studies have demonstrated the vulnerability of Rohingya refugees to trafficking and especially those living outside the camps, there is no information about ethnic and religious minorities living in different parts of Bangladesh, including the Chittagong Hill Tracts (CHT). Moreover, no information on the situation and vulnerability of the Biharis to child sexual abuse and exploitation was found. As the Special Rapporteur on Violence Against Women has noted, a common feature of armed conflict is the sexual and physical abuse of girls and women by members of both state and non-state forces.³³⁵ Reports have shown that during the 25-year insurgency in the Chittagong Hill Tracts (CHT), girls and women were sexually abused, including rape, by members of the armed forces, however, little is known about the current situation and vulnerabilities of girls post-Peace Accord and information is required.³³⁶

³³² CRC/C/15/Add.74 par.13.

³³³ Refer to reports of Shishu Adhikar Sangjog (2001) and Blanchet (1996) among others.

³³⁴ Refer to Annual Report of Special Rapporteur on the right to education, Katarina Tomasevski, to the UN Commission on Human Rights, E/CN.4/2001/52, 11 January 2001.

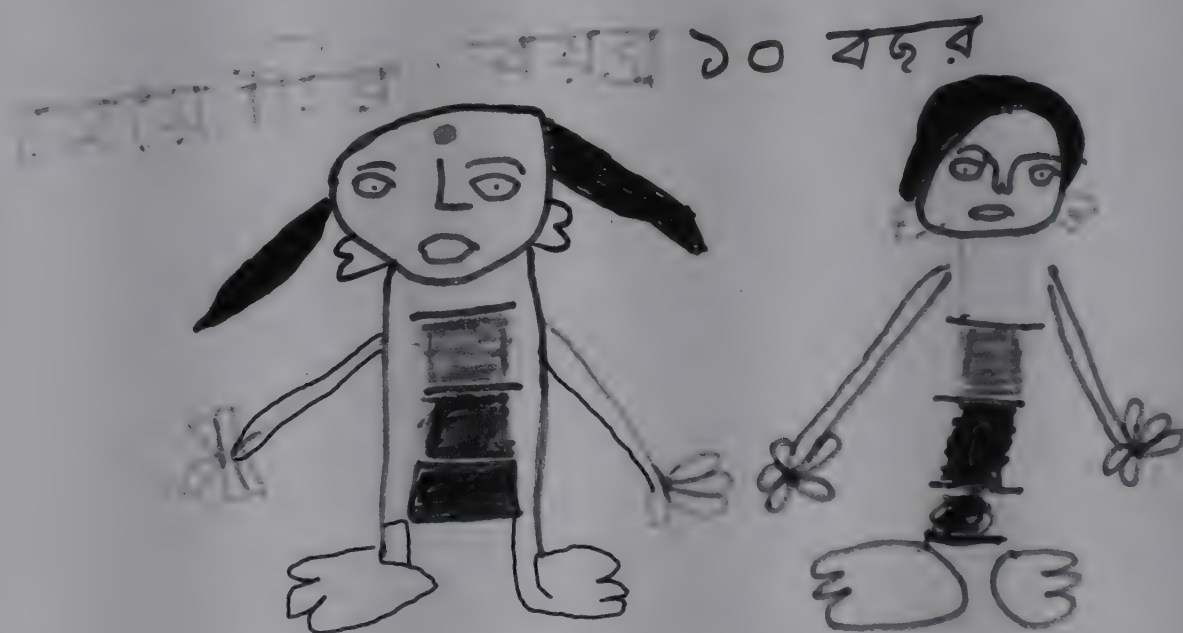
³³⁵ Statement of Ms Radhika Coomaraswamy, Special Rapporteur on Violence Against Women, 57th Commission on Human Rights, 9 April 2001.

³³⁶ See par. 27. 'Principal subjects of concern' in the Concluding Observations, Child Rights Committee CRC/C/15/Add.74, 6 June 1997. With regard to recent cases of sexual abuse, see Amnesty International, *Bangladesh: Human Rights in the CHT AI Index: ASA 13/01/00* (London: Amnesty International, 2000) p.14, which documents the Babu Chara Bazar killings of 3 people, sparked after an incident whereby a Bangladeshi army personnel allegedly molested a Jumma Woman. The Government is reported to have set up an inquiry, but no news about its progress or outcome was found by Amnesty International.

The tendency to blame the victim of sexual abuse and exploitation, particularly girls, rather than the abuser, also creates an unwelcoming environment for the victim: once the incident is known in the community, the sexually abused girl is at risk to be cast out of her family and it might only be a matter of time before she is again abused or exploited.

Unless coordinated efforts are put in place to address the discrimination and stigma experienced by sexually abused and exploited children and children of sex workers, it will be difficult for them to ever enjoy the rights to which they are entitled.

Finally, while noting that many NGO, INGO, UN and government interventions are adopting rights-based approaches, at the implementation level, many remain charity and welfare-based. Many interventions or parts thereof fail to reach their full potential as a 'best practice' because children who are sexually abused and exploited and/or who are vulnerable to such abuses are not treated with the respect and dignity as is their right. Whether it is the project staff who views the child with pity, or the employer who does not have high expectations for 'noshto meye' ('spoiled' girls), this has a direct and lasting impact on the child's ability to recover from the abuse and exploitation and reintegrate into society.



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Annex I

National and International Commitments



The attached national laws and relevant sections of the Penal Code of 1960 pertain to the protection of children from sexual abuse and exploitation and the punishments for those who violate the laws. The Bangladesh Passport Order, 1973 and Emigration Ordinance, 1982 are related to migration, including illegal migration and are therefore also relevant.

Key international instruments pertaining to the promotion and protection of children's rights, in particular, combating child sexual abuse and exploitation, are also included in the report.

The Suppression of
Immoral Traffic Act, 1933

CONTENTS.

SECTIONS.

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2. Repeals.
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5. Determination of tenancy of premises in the case of a conviction under section 4.
6. Power to order discontinuance of house, room or place as brothel, etc.
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13. Removal of minor girls from premises in certain cases.
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26. Limitation of actions.
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THE SCHEDULE.

Enactment Repealed.

—

[22nd June, 1933.]

An Act for the suppression of ²[brothels and] immoral traffic in ³[Bangladesh].

WHEREAS it is expedient to make better provision for the suppression of ⁴[brothels and of] traffic in women and girls for immoral purposes ;

3* * * * *

It is hereby enacted as follows :—

1.—(1) This Act may be called the ⁶*Suppression of Immoral Traffic Act, 1933.

Short title,
commence-
ment and
extent.

7(2) It extends to the whole of ³[Bangladesh].]

(3) This section shall come into force at once and the remaining provisions of this Act, in whole or in part, shall come into force in such areas and on such dates as the ⁸[Govern-ment] may, by notification in the ⁹[Official Gazette], specify and for this purpose different dates may be specified for different provisions of this Act and for different areas.

2. The enactments specified in the schedule are hereby repealed ¹⁰** to the extent noted against each.

Repeals.

¹For Statement of Objects and Reasons, see *Calcutta Gazette*, 1932, Pt. IV p. 66, and for report of the Select Committee, see *ibid.*, 1933, Pt. IV, p. 32, and for proceedings of the Council, see the Proceedings of the Bengal Legislative Council, Vol. XXXVIII, No. 2, p. 40, and *ibid.*, Vol. XXXIX, No. 1, pages 203 and 233 and *ibid.*, Vol. XLI, No. 3, pages 22, 102 and 149.

²The words within square brackets were inserted by E. B. Act V of 1950, section 2 and the First Sch.

³Subs. by Act VIII of 1973, s. 3 & 2nd Sch., as amended by Act LIII of 1974, for "East Pakistan".

⁴The words within square brackets were inserted by E. B. Act V of 1950, section 2 and the First Sch.

⁵Second paragraph of the preamble was omitted by Act VIII of 1973, s. 3 and 2nd Sch., as amended by Act LIII of 1974.

⁶The word "Bengal" was omitted by Act VIII of 1973, s. 3 & 2nd Sch., as amended by Act LIII of 1974.

⁷Sub-section (2) was substituted for the former sub-section (2) by E. P. Ord. No. XIII of 1962, First Schedule.

⁸Subs. by Act VIII of 1973, s. 3 & 2nd Sch., as amended by Act LIII of 1974, for "Provincial Government".

⁹The words within square brackets were substituted for the words "Calcutta Gazette" by paragraph 4(2) of the Government of India (Adapta-tion of Indian Laws) Order, 1937.

¹⁰The word "or amended" which were repealed by the Bengal Repealing Act 1938, (Ben. Act I of 1939) were omitted.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) "brothel" means any house, part of a house, room or place in which two or more females carry on prostitution¹ in which any girl under the age of eighteen years is kept with intent that she shall at any age be employed or used for any immoral purpose.

Explanation.—Where a girl under the age of eighteen years is for the time being resident in any house or place used by one or more females for the purpose of prostitution and is being maintained by or associating with any prostitute, it shall, unless such girl is the daughter of an inmate of such house or place, be presumed until the contrary is proved that she is being kept with intent that she shall be employed or used for an immoral purpose.

(3) "prescribed" means prescribed by rules made under this Act ;

(4) "prostitution" means promiscuous sexual inter course for hire, whether in money or kind ;

(5) "prostitute" means any female available for the purpose of prostitution ;

(6) "public place" includes the site of any *hat*, *bazar* or *meela*, the banks of any river and any docks, jeties and warehouses to which the public have access, every public building, garden, monument, and the precincts thereof, every place of public amusement, every place of public entertainment and every place accessible to the public for drawing water, washing or bathing, or for purposes of recreation.

Explanation.—(a) The expression "place of public amusement" means any place, enclosure, building, tent, booth or other erection, whether permanent or temporary, where music, singing, dancing, or any diversion or game, or the means of carrying on the same, is provided, and to which the public are admitted either on payment of money, or with the intention that money may be collected from those admitted, and includes a race-course, carnival, circus, cinema, theatre, music hall, billiard-room, bagatelle-room, gymnasium and fencing school.

¹The words "for the gain of any other person" were omitted by E. B. Act V of 1950, section 2 and the First Schedule.
²Clause (2) was omitted by E. P. Ord. No. XIII of 1962, First Schedule.

(b) The expression "place of public entertainment" means any place, whether enclosed or open, to which the public are admitted, and where any kind of food or drink is supplied for consumption on the premises for the profit or gain of any person owing or having an interest in or managing such place and includes a refreshment-room, eating-house, coffee-house, liquor-house, boarding-house, lodging-house, hotel, tea-shop, tavern and a wine, beer, spirit, *arrack*, *toddy*, *ganja*, *bhang* or opium shop.

(7) "Superintendent of Police" includes any Assistant Superintendent of Police or other person appointed by general or special order of the [Government] to perform all or any of the duties of a Superintendent of Police under this Act in any district.

4.—(1) Any person who—

(a) keeps or manages or acts or assists in the management of a brothel, or

(b) being the tenant, lessee, occupier, or person in charge of any premises, knowingly permits such premises or any part thereof to be used as a brothel, or

(c) being the lessor or landlord of any premises or the agent of such lessor or landlord, lets the same, or any part thereof, with the knowledge that the same, or any part thereof, is intended to be used as a brothel,

shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

(2) Any person who, having been convicted of an offence punishable under sub-section (1) is convicted of a subsequent offence punishable under the said sub-section shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both, and may in addition be ordered by the Court convicting him to execute a bond for a sum proportionate to his means, with or without sureties, to be of good behaviour for such period not exceeding three years as it thinks fit.

(3) If a conviction under sub-section (2) is set aside on appeal or otherwise the bond so executed shall be void.

(4) An order for the execution of a bond in accordance with the provisions of sub-section (2) may also be made by an Appellate Court or by the [High Court Division] when exercising its powers of revision.

Punishment for keeping a brothel or allowing premises to be used as a brothel.

¹Subs. by Act VIII of 1973, s. 3 & 2nd Sch., as amended by Act III of 1974, for "Provincial Government".
²Subs. *ibid.*, for "High Court".

THE provisions of Chapter VIII of the Code of Criminal Procedure, 1898, shall apply to orders made for the execution of bonds under this section, and imprisonment for failure to give security shall be rigorous or simple as the Court may direct.

(6) In a prosecution under this section if it is found that any premises or part thereof have been used as a brothel, they shall be presumed until the contrary is proved that the manager, tenant, lessee, occupier or person in charge of such premises or part knew that the premises or part thereof were being used as a brothel.

(7) No Court shall take cognizance of any offence punishable under this section except on the complaint of—

¹[(a) the Chairman of the ²[Paurashava, Zilla Board or Union Parishad] within the jurisdiction of which the premises are situated, made in pursuance of a resolution of the ³[Paurashava, Zilla Board or Union Parishad] as the case may be or]

(h) three or more persons occupying separate premises or holdings and resident in the vicinity of the premises or holdings to which the complaint relates; or

(c) a representative of any society recognised by the ⁴[Government] in this behalf who has been authorised by the society to institute prosecutions under this section.

(8) No complaint shall be instituted under this section in respect of any brothel with reference to which proceedings are pending under section 6.

5.—(1) On conviction of the tenant, lessee or occupier of any premises of any offence under section 4 in respect of such premises, the landlord or lessor of such premises shall be entitled to require the person so convicted to surrender the lease or other contract under which the said premises are held by him, or to assign the said lease or contract to some person approved by the landlord or lessor, which approval shall not be unreasonably withheld, and, in the event of the person so convicted failing within three months to surrender or assign the lease or contract as aforesaid, the landlord or lessor shall be entitled to determine the lease or other contract, but without prejudice to the rights or remedies of any party to such lease accruing before the date of such determination.

¹This clause was substituted for the former clause (a) of sub-section (7) of section 4 by E. P. Ordinance No. XIII of 1962, First Sch.

²Subs. by Act VIII of 1973, s. 3 and 2nd Sch., as amended by Act LIII of 1974, for "Municipal Committee, Town Committee, District Council or Union Council".

³Subs. *ibid.* for "Municipal Committee, Town Committee or of the Council".

⁴Subs. *ibid.* for "Provincial Government".

(2) If the landlord or lessor determines a lease or contract of tenancy under the provisions of sub-section (1), the Court which convicted the tenant, lessee, or occupier of the premises may make an order for delivery of possession by such tenant, lessee, or occupier to the landlord or lessor within such time, not being less than seven days, as the Court may direct. A copy of the order shall be served on the person against whom it is made. If such person fails to comply with the order, he shall be punished with imprisonment of either description for a term which may extend to one month or with fine which may extend to two hundred [Taka] or with both, and the Court may take such steps as it considers necessary to put the landlord or lessor in actual possession of the premises.

(3) The Court convicting any tenant, lessee or occupier of an offence punishable under section 4 in respect of any premises may give notice in writing of such conviction to the landlord or lessor of such premises, and if the landlord or lessor after service of the notice does not exercise his rights under sub-section (1) and subsequently during the subsistence of the lease or contract an offence under section 4 is again committed in respect of the premises, the landlord or lessor shall be deemed to have abetted such offence, unless he proves that he has taken all reasonable steps to prevent the recurrence of the offence.

(4) Where a landlord or lessor determines a lease or other contract under sub-section (1), and subsequently grants another lease or enters into another contract of tenancy in respect of the same premises to, with or for the benefit of the same person he shall be deemed to have failed to exercise his rights under sub-section (1) and any offence under section 4 committed during the subsistence of the subsequent lease or contract shall be deemed for the purposes of this section to have been committed during the subsistence of the previous lease or contract unless such landlord or lessor satisfies the Court that he made reasonable inquiries to justify a *bona fide* belief that such tenant, lessee or occupier did not intend to use the premises as a brothel or to allow them to be so used.

(5) No action taken by any landlord or lessor under the provisions of this section shall be called in question in any Civil Court.

6.—(1) If the ²* * * * * Superintendent of Police receives information that any house, room or place—

(a) is being used as a brothel or disorderly house, or for the purpose of carrying on prostitution, in the vicinity of any educational institution or of

Power to order discontinuance of house, room or place as brothel, etc.

¹Subs. by Act VIII of 1973, s. 3 & 2nd Sch., as amended by Act LIII of 1974, for "rupees".

²The words "Commissioner of Police or" were omitted by E. P. Ord. No. XXIII of 1962, First Schedule.

(Sec. 6.)

any boarding-house, hostel or mess used or occupied by students, or of any place of public worship, recreation, or

(b) is used as, or for the purpose, aforesaid to the annoyance of inhabitants of the vicinity, or

"[(c) is used, as, or for the purpose, aforesaid on any main thoroughfare which has been notified as such in the behalf by the ²[Government] on the recommendation of any ³[Paurashava], within whose jurisdiction the thoroughfare is situated, made in pursuance of the resolution of the ³[Paurashava], or]

(d) is used as a common place of assignation,

he may cause a notice to be served on the owner, lessor, manager, lessee, tenant or occupier of the house, room or place or all of them, to appear before him, either in person or by agent, on a date to be fixed in such notice, and to show cause why, on the grounds to be stated in the notice, an order should not be made for the discontinuance of such use of such house, room or place.

(2) If, on the date fixed, or on any subsequent date to which the hearing may be adjourned, the ⁴* Superintendent of Police is satisfied after making such inquiry as he thinks fit, that the house, room or place is used as described in clause (a), (b), (c) or (d) of sub-section (1), as the case may be, he may direct by order in writing to be served on such owner, lessor, manager, lessee, tenant or occupier that the use as so described of the house, room or place be discontinued from a date not less than fifteen days from the date of the said order and be not thereafter resumed.

(3) No house, room or place, concerning which an order has been made under sub-section (2), shall again be used or be allowed to be used, in any manner described in clause (a), (b), (c) or (d) of sub-section (1), as the case may be, and the ⁴* Superintendent of Police, if he is satisfied that such house, room or place is again used in such manner, may by order in writing to be served on the owner, lessor, manager, lessee, tenant or occupier of such house, room or place direct that the use as so described of such house, room or place, be discontinued within a period of seven days and be not thereafter resumed.

¹This clause was substituted for the former clause (c) by E. P. Ordinance No. XIII of 1962, First Schedule.
²Subs. by Act VIII of 1973, s. 3 and 2nd Sch., as amended by Act III of 1974, for "Provincial Government".
³Subs. *ibid.* for "Municipal Committee or Town Committee".
⁴The words "Commissioner of police or" were omitted by E. P. Ord. XIII of 1962, First Sch.

(Sec. 6.)

(4) For the purposes of this section the decision of the Superintendent of Police that a house, room or place is used in any manner, or for any purpose, described in clause (a), (b), (c) or (d) of sub-section (1) shall be final, and the legality or propriety thereof shall not be questioned in any trial or judicial proceeding in any Court.

(5) Whoever, after an order has been made by the ¹* Superintendent of Police under sub-section (2) or sub-section (3) in respect of any house, room or place, uses, or allows to be used, such house, room or place in a manner which contravenes such order after the period stated therein, shall be punished with fine which may extend to fifty [Taka] for every day after the expiration of the said period during which the breach continues, and shall, on a second conviction for the same offence, be punished with imprisonment for a term which may extend to six months in addition, to or in lieu of, any fine imposed.

(6) For the purpose of an inquiry under this section the ¹* Superintendent of Police may depute any police officer not below the rank of an inspector to make a local investigation, and may take into consideration his report thereon.

(7) ³* * * * * the Superintendent of Police shall maintain a register in which shall be entered a description of all houses, rooms and places in respect of which an order has been made under this section. Such register shall be open to inspection by the public on payment of the prescribed fee.

(8) Notwithstanding anything contained in any other law for the time being in force, the owner or lessor of any house, room or place, in respect of which an order has been made on the lessee, tenant or occupier thereof directing the discontinuance of the use thereof as a brothel or disorderly house or for the purpose of carrying on prostitution, or as a common place of assignation, shall be entitled forthwith to determine such lease, tenancy or occupation.

(9) No proceedings shall be taken under this section in respect of premises which are the subject of any proceedings under section 4 or within six months of the termination of such proceedings.

¹The words "Commissioner of Police or" were omitted by E. P. Ord. No. XIII of 1962, First Schedule.
²Subs. by Act VIII of 1973, as amended by Act LIII of 1974, for "Purposes".
³The words "The Commissioner of Police and" were omitted by E. P. Ord. XIII of 1962, First Schedule.
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Soliciting for purposes of prostitution.

7.—(1) Any person who in any street or public place, or within sight of, and in such manner as to be seen or heard from any street or public place, whether from within any house or building or not—

(a) by words, gestures, or indecent personal exposure attracts or endeavours to attract attention for the purposes of prostitution; or

(b) solicits or molests any person for the purposes of prostitution;

shall be punished with imprisonment of either description which may extend to one month or with fine which may extend to one hundred [Taka] or with both.

(2) Notwithstanding anything contained in section 65 of the [Penal Code], imprisonment in default of fine imposed under sub-section (1) may extend to one month.

Punishment for living on the earnings of prostitution.

8.—(1) Any person over the age of eighteen years who knowingly lives, wholly or in part, on the earnings of the prostitution of another person, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine which may extend to one thousand [Taka], or with both, and, if a male person, shall also be liable to whipping.

(2) Where a person is proved to be living with, or to be habitually in the company of a prostitute, or to have exercised control, direction or influence over the movements of a prostitute, in such a manner as to show that he is aiding, abetting or compelling her prostitution, it shall be presumed until the contrary is proved, that he is living on the earnings of prostitution.

Provided that the mother, or a son or daughter, of a prostitute, shall not be punished under this section for living on the earnings of such prostitute unless the Court is satisfied that such mother, son or daughter is aiding, abetting or compelling her prostitution.

Procurator.

9.—(1) Any person who induces a female to go from any place with intent that she may, for the purposes of prostitution, become the inmate of, or frequent a brothel, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine which may extend to one thousand [Taka], or with both, and, if a male person, shall also be liable to whipping.

1 Subs. by Act VIII of 1973, s. 2, and Sec. 3 as amended by Act III of 1974 for "rupees".

2 Subs. *ibid.* for "Pakistan Penal Code".

(2) An offence under this section shall be triable in the place from which the female was induced to go, or in any place to which she may have gone as a result of such inducement.

Punishment of importing a female for prostitution.

10.—(1) Any person who brings or attempts to bring or causes to be brought into any place in which this Act is in force any female with a view to her earning hire, or being brought up to earn hire as a prostitute, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine which may extend to one thousand [Taka], or with both, and, if a male person, shall also be liable to whipping.

(2) An offence under this section may be tried in any place to which the female is brought or caused to be brought, or in which an attempt to bring her is made, or in any place from which she is brought or caused to be brought, or from which an attempt to bring her is made.

14. Any person who detains—

(a) any female under the age of eighteen years, against her will in any house, room or place in which prostitution is carried on, or

(b) any female against her will in or upon any premises with intent that she may have sexual intercourse with any man other than her lawful husband, whether with any particular man or generally,

Punishment for detention as prostitute or in brothels, etc.

shall be punished with imprisonment of either description for a term which may extend to three years, or with fine which may extend to one thousand [Taka] or with both.

12. If any person having the custody, charge or care of any girl under the age of eighteen years causes or encourages or abets the seduction or prostitution of that girl he shall be punished with imprisonment of either description for a term which may extend to two years or with fine which may extend to one thousand [Taka] or with both, and, if a male person, shall be liable also to whipping.

Punishment for causing or encouraging or abetting seduction or prostitution of girl.

13. The 2* * * * Superintendent of Police, or a police officer not below the rank of a sub-inspector specially authorised in writing in this behalf by the 3* * * Superintendent of Police, may enter any premises if he has reason to believe—

Removal of minor girls from premises in certain cases.

(a) that an offence punishable under section 4 has been committed or is being committed in respect of the premises; or

1 See footnote 1 on page 194 ante.

2 The words and the comma in "Commissioner of Police" were omitted by L.P. Ord. No. XIII of 1962, First Schedule.

3 The words "Commissioner of Police" were omitted, *ibid.*

(b) that a female in respect of whom an offence punishable under section 8, 9, 10, 11 or 12 has been committed is to be found therein ;

and may remove any girl who appears to him to be under the age of eighteen years, if he is satisfied—

(a) that an offence punishable under section 4 has been committed in respect of the premises ;

(b) that an offence punishable under section 8, 9, 10, 11 or 12 has been committed in respect of the girl.

Disposal of minor girls removed from premises under section 13.

14.—(1) A girl who has been removed from any premises under section 13 and who appears to be under the age of sixteen years shall be brought before a Juvenile Court as defined in clause (3a) of section 3 of the Children Act, 1922*, having jurisdiction over the place where the premises are situated. The Court shall make such inquiry as it thinks fit and, if satisfied that the girl is under the age of sixteen years and that she should be dealt with as hereinafter provided, may pass an order that she be placed in suitable custody in the prescribed manner until she attains the age of eighteen years or for any shorter period, or make her over to the care of a suitable person under such conditions as may be prescribed and may in addition make an order that she be placed under the supervision of a person to be named by the Court.

(2) Where a girl has been removed from any premises under section 13 and there is no Juvenile Court having jurisdiction over the place where the premises are situated or the girl appears to be above the age of sixteen years, she shall be brought before a Magistrate of the first class having jurisdiction over such place. The Magistrate shall make such inquiry as he thinks fit and, if satisfied that the girl is under the age of eighteen years and that she should be dealt with as hereinafter provided, may pass an order that she be placed in suitable custody in the prescribed manner until she attains the age of eighteen years or for any shorter period, or make her over to the care of a suitable person under such conditions as may be prescribed and may in addition make an order that she be placed under the supervision of a person to be named by the Magistrate.

Validity of determination of age by Juvenile Court or Magistrate.

15. No order made by a Juvenile Court or a Magistrate under section 14 shall be invalidated by any subsequent proof that the age of the girl has not been correctly determined by the Court or the Magistrate.

*The word "Bengal" was omitted by Act VIII of 1973, s. 3 and 2nd Sch. as amended by Act LIII of 1974.
Read clause (1) of section 2 of the Children Act, 1974 (Act XXXIX of 1974).

16. Where any girl is produced before a Juvenile Court or a Magistrate under section 14 and any person has been tried by any Court on a charge under sections 8, 9, 10, 11 or 12 in respect of such girl or under section 4 in respect of the premises from which she has been removed, the record of such trial may be called for by the Juvenile Court or the Magistrate and the record of evidence given in such trial may be used by such Juvenile Court or Magistrate for the purposes of the inquiry under section 14, as if recorded by such Court or Magistrate respectively.

Nothing in this section shall prevent any Juvenile Court or Magistrate hearing and recording the evidence of any witness if such Court or Magistrate thinks fit.

17.—(1) When a girl has been removed from any premises under the provisions of section 13, the officer carrying out the removal shall, until such girl can be brought before a Juvenile Court or Magistrate of the first class, cause her to be detained in such place as may be prescribed in this behalf by the [Government].

[Intermediate custody of girls removed from premises under section 13.]

(2) When such girl is produced, the Juvenile Court or the Magistrate, as the case may be, may order her to be detained until the disposal of her case in such place as may be prescribed in this behalf by the [Government] or may make her over to the care of a suitable person and may order such person to execute a bond for her production.

Contribution of parents.

18.—(1) When an order has been passed by a Juvenile Court or a Magistrate under section 14 for the custody of a girl, such Court or Magistrate may order the parent or other person liable to maintain the girl to contribute to her maintenance, if able to do so, in the prescribed manner.

(2) The Court or Magistrate, before making an order under sub-section (1), shall inquire into the circumstances of the parent or other person liable to maintain the girl and shall record the evidence, if any, in the presence of the parent or such other person, as the case may be, if he appears, or, when his personal attendance is dispensed with, in the presence of his pleader.

(3) Any order made under this section may be enforced in the same manner as an order under section 488 of the Code of Criminal Procedure, 1898.

Act V of 1898.

Authority of persons having custody of girl.

19. Notwithstanding anything contained in any other law, any person to whose custody a girl is committed by an order made under section 14 shall, while the order is in force, have the like control over the girl as if he were her parent and shall be responsible for her maintenance and protection and the girl shall continue in his custody notwithstanding that she is claimed by her parent or any other person.

*Subs. by Act VIII of 1973, s. 3 and 2nd Sch. as amended by Act LIII of 1974, for "Provincial Government".

Inspection of institutions where girls are kept.

20 The [Government] may cause any institution in which any girl is kept for the time being in pursuance of an order made under section 14 and which is supported wholly or partly by voluntary contributions, and is not liable to be inspected by or under the authority of [the Government] to be visited and inspected from time to time by persons appointed by the [Government] for the purpose.

Appeal from orders by Juvenile Court or Magistrate.

[21. An appeal shall lie, from any order passed under section 14 or section 18 by a Juvenile Court or by a Magistrate, to the District Magistrate of the district within which such Juvenile Court or the Court of such Magistrate is situated.]

Arrest without warrant for solicitation.

22. Any police officer may, at the instance of any person aggrieved arrest without warrant any person who, in his sight and in a public place, solicits any person for the purposes of prostitution to the annoyance of the person solicited or of two or more inhabitants of the locality or passers-by, if the name and address of the person soliciting be unknown to him and cannot be ascertained by him then and there.

Offences triable only by First Class Magistrates.

23. Notwithstanding anything contained in Schedule II to the Criminal Procedure Code, 1898, no Magistrate other than a 4th * # * # Magistrate of the first class shall try any offence punishable under section 4, 5, 6 or 12.

Bonds.

24. The provisions of Chapter XLII of the Code of Criminal Procedure, 1898, shall apply to bonds taken under this Act, or under the rules made under section 27.

Notices

25. Whenever a notice or copy of an order may be served under the provisions of this Act, such service shall be made in the manner provided for the service of a summons in the Code of Criminal Procedure, 1898, provided that if service is to be made under the provisions of section 71 of that Code, and it is not known where the person on whom such notice or the copy of such order is to be served ordinarily resides, the serving officer shall affix one of the duplicates of such notice or such copy of such order to some conspicuous part of the premises to which such notice or order relates.

Limitation of action.

[26. The provisions of section 42 and section 43 of the Police Act, 1861, shall apply to all actions and prosecutions for anything done or intended to be done under the provisions of this Act.]

Rules

27.—(1) The [Government] may subject to the condition of previous publication make rules for carrying out the purposes of this Act

¹Subs. by Act VIII of 1973, s. 3 and 2nd Sch., as amended by Act LIII of 1974, for "Provincial Government".

²Subs. *ibid.* for "any Government".

³This section was substituted for the former section 21 by E. P. Ordinance No. XIII of 1962, First Schedule.

⁴The words "Presidency Magistrate or" were omitted. *ibid.*

⁵This section was substituted for the former section 26 by E. P. Ord. No. XIII of 1962.

(2) In particular, and without prejudice to the generality of the foregoing power, the [Government] may make rules—

- prescribing the fee to be paid for inspection of a register maintained under sub-section (7) of section 6;
- prescribing the manner in which girls may be placed in suitable custody under sub-section (1) and sub-section (2) of section 14 and the places in which they may be kept, and providing for the care, treatment, instruction, maintenance, and supervision of such girls;
- prescribing the conditions under which girls may be made over to the care of a suitable person under sub-section (1) and sub-section (2) of section 14;
- prescribing the places in which girls may be detained under the provisions of sub-section (1) and sub-section (2) of section 17;
- prescribing the manner in which the managers of any institution prescribed as suitable custody may board out or license any girl placed in such custody under section 14, and providing for the supervision of such girls when boarded out or licensed;
- providing for bonds to be taken from persons with whom such girls are boarded out, or who take them on license;
- providing for bonds to be taken by a Juvenile Court or by a Magistrate when making such girls over to suitable custody, not being the custody of a notified institution, and for the form of such bonds, and the conditions to be contained therein, and for cancelling such bonds, and for making further provisions for the suitable custody of such girls on forfeiture of such bonds;
- regulating the contribution by parents and other persons liable to maintain girls placed in suitable custody.

THE SCHEDULE

(See section 2.)

Enactment Repealed.

Year.	Number.	Short title.	Extent of repeal
1	2	3	4
1922	11	^{3**} [The Children Act, 1922] [†]	Section 41.

¹See foot-note 1 on page 197, *ante*.

²This Schedule was substituted for the former Schedule by E. P. Ord. No. XIII of 1962, First Schedule.

³The words "Bengal Act" were omitted by Act VIII of 1973, s. 3 and 2nd Sch., as amended by Act LIII of 1974.

⁴Subs. *ibid.* for "The Bengal Children Act, 1922".

[†]See The Children Act, 1974, s. 78.

The Bengal Vagrancy Act, 1943

Bengal Act VII of 1943
VAGRANCY ACT, 1943
(As amended up to 1974)

[25th October, 1943]

An Act to provide for dealing with vagrancy in Bangladesh.

Whereas it is expedient to make provision for dealing with vagrancy in Bangladesh;

It is hereby enacted as follows: -

CHAPTER 1.

Preliminary.

Short title,
extent and
commencement

1. (1) This Act may be called the Vagrancy Act, 1943

(2) It extends to the whole Bangladesh.

(3) It shall come into force in such areas on such dates as the Government may, by notification in the Official Gazette, direct.

Definition

2. In this Act, unless there is anything repugnant in the subject or context, -

(1) "Board" means the Vagrancy Advisory Board established under sub-section (1) of section 3;

(2) Repealed by E.P. Ord. XXVIII 1960, First Schedule.

(3) "child" means a person under the age of fourteen years;

(4) "Controller" means the Controller of Vagrancy appointed under sub-section (1) of section 4;

(5) Repealed by E.P. Ord. XXVIII 1960, First Schedule.

(6) "prescribed" means prescribed by rules made under this Act;

(7) "receiving centre" means house or institution for the reception and temporary detention of vagrants, provided by the Government or certified as such under sub-section (1) of section 12;

(8) "Special Magistrate" means a Magistrate empowered to act as such under section 5;

(9) "vagrant" means a person found asking for alms in any public place, or wandering about or remaining in any public place in such condition or manner as makes it likely that such person exists by asking for alms but does not include a person collecting money or asking for food or gifts for a prescribed purpose;

(10) "vagrants' home" means an institution provided by the under sub-section (1) of section 13 for the permanent detention of vagrants.

Vagrancy
Advisory Board.

3. (1) The Government as soon as possible after the commencement of this Act shall establish a Board to be called the Vagrancy Advisory Board.

(2) The Board shall be constituted in the manner prescribed, subject to the condition that the number of the members of the Board shall not be less than ten.

(3) The function of the Board shall be to advise the Government on all matters relating to the control of vagrancy and in particular on the administration of this Act and for the aforementioned purposes any member of the Board may enter and inspect at any time any receiving centre or vagrants' home

(4) The Board may, with the previous approval of the Government, make regulations to provide for, -

- (a) the times and places at which its meetings shall be held;
- (b) the issue of notices concerning such meetings; and
- (c) the conduct of business thereat.

Appointment of
Controller of
Vagrancy and his
assistants.

4. (1) For carrying out the purposes of this Act the Government may appoint a person to be Controller of Vagrancy together with such other persons to assist him as it thinks fit.

(2) Persons appointed under sub-section (1) shall exercise such powers as may be conferred and perform such functions as may be required by or under this Act.

Special
Magistrates

5. For the purposes of chapter II of this Act, the Government may empower any Magistrate of the first class to act as a Special Magistrate.

CHAPTER II

Procedure.

Power to require
apparent vagrant
to appear before
Special Magistrate.

6. Any police officer authorized in this behalf by the District Magistrate and in the Dacca Metropolitan Area, by the police Commissioner may require any person who is apparently a vagrant to accompany him or any other police officer to, and to appear before, a Special magistrate,

Summary inquiry in
respect of apparent
vagrant and
declaration of
person to be a
vagrant by Special
Magistrate.

7.(1) When a person is brought before a Special Magistrate under section 6, such Special Magistrate shall make a summary inquiry in the prescribed manner into the circumstances and character of such person, and if, after hearing anything which such person may wish to say he is satisfied that such person is a vagrant, he shall record a declaration to this effect and the provisions of this Act relating to vagrants shall thereupon apply to such person.

(2) If on making the summary inquiry referred to in sub-section (1) the Special Magistrate is not satisfied that the person brought before him under section 6 is a vagrant such person shall forthwith be released.

(3) A Special Magistrate recording a declaration under sub-section (1) that a person is a vagrant shall forthwith send a certified copy of such declaration to the Controller, and to the officer-in-charge of the receiving centre to which such vagrant is sent under sub-section (1) of section 8.

Detention in receiving centre and medical examination of vagrant.

8. (1) When a person has been declared to be a vagrant under sub-section (1) of section 7 he shall forthwith be sent in the manner prescribed to the nearest receiving centre and there handed over to the custody of the officer-in-charge of such receiving centre, and such vagrant shall be detained in such receiving centre until he is sent therefrom to vagrants' home under sub-section (1) of section 9.

(2) As soon as possible after the commencement of the detention of a vagrant in a receiving centre the medical officer of such receiving centre shall with such medical help as may be necessary medically examine the vagrant in the manner prescribed as quickly as is consistent with the circumstances of the case and shall thereupon furnish the officer-in-charge of the receiving centre with a medical report regarding the health and bodily condition of the vagrant.

(3) The medical report referred to in sub-section (2) shall state *inter alia*, -

- (a) the sex and age of the vagrant;
- (b) whether the vagrant is a leper;
- (c) from what, if any, communicable diseases other than leprosy the vagrant is suffering;
- (d) whether the vagrant is insane or mentally deficient;
- (e) what is the general state of health and bodily condition of the vagrant and for which, if any, of the prescribed types of work he is fit.

Procedure for sending vagrant to vagrants' home.

9. (1) On receipt of the medical report referred to in sub-section (2) of section 8 the officer-in-charge of a receiving centre shall, as soon as the necessary arrangements can be made, send the vagrant in the prescribed manner to such vagrants' home as the Controller may by general or special order in this behalf direct, and the said officer-in-charge shall along with such vagrant send to the Manager of the said vagrants' home, -

- (a) the certified copy of the declaration made under sub-section (1) of section 7 relating to such vagrant which is to be sent to such officer-in-charge under sub-section (3) of the said section, and
- (b) the said medical report.

(2) When a vagrant is sent to a vagrants' home under the provisions of sub-section (1) he shall be handed over to the custody of the Manager of such vagrants' home and shall be detained therein, or in a vagrants' home to which he may be transferred under section 16, until duly discharged therefrom under section 18.

(3) In issuing any order under sub-section (1) the Controller shall ensure that the following classes of vagrants, namely, -

- (a) lepers,
- (b) the insane or mentally deficient,
- (c) those suffering from communicable diseases other than leprosy,
- (d) children,

are segregated from each other and from vagrants who do not belong to any of the aforementioned classes and shall also ensure that the male vagrants are segregated from the female vagrants :

Provided that the provisions of this sub-section in respect of children may be relaxed as prescribed.

Exemption of
vagrant from area
in which the Act
is in force.

10.(1) If after an inquiry made under sub-section (1) of section 7 the Special Magistrate is satisfied that the person brought before him under section 6 is a vagrant but, in the course of such inquiry, it has appeared that the vagrant was not born in the area in which this Act is in force or has not been continuously resident therein for more than one year, the Special Magistrate, after making such further inquiry, if any, as he may deem necessary, may by order in writing direct the said vagrant to leave the said area within such time and by such route or routes as may be stated in the order and not to return thereto without the permission in writing of the controller, and in such case, notwithstanding anything contained in sub-section (1) of section 7, the provisions of sections 8 and 9 shall not apply to such vagrant :

Provided that if the Special Magistrate deems it necessary to make any further inquiry as aforesaid in respect of such vagrant, the vagrant shall be detained pending conclusion of the said inquiry in such receiving centre as the controller may by general or special order in this behalf direct and for this purpose shall be sent thereto in the manner prescribed and there handed over to the custody of the officer-in-charge of such receiving centre, and shall, while he is so detained, be subject to the rules of management and discipline referred to in sub-section (1) of section 15.

(2) The Controller shall not give the permission referred to in sub-section (1) unless, if the vagrant had been detained in a vagrants' home, such vagrant would have been eligible to have been discharged therefrom under the provisions of sub-section (1) of section 18.

(3) When a vagrant against whom an order has been made under sub-section (1) fails to comply with such order within the time specified therein, or after complying with the said order returns without the permission in writing of the Controller to any place within the area referred to in the said order, such vagrant may be arrested without a warrant by any police officer, and shall be liable, on conviction before a Magistrate, to be punished with rigorous imprisonment for a term which may extend to six months.

Validity of custody
and detention of
vagrant.

11. A declaration that a person is a vagrant recorded by a Special Magistrate under sub-section (1) of section 7 shall be sufficient authority to any person to retain such vagrant in his custody when such person is under the provisions of this Act or of any rule made thereunder conveying a vagrant from the Court of a Special Magistrate to a receiving centre or, from a receiving centre to a vagrants' home or from one vagrants' home to another and to the officer-in-charge of a receiving centre and to the Manager of a vagrants' home for detaining such vagrant in accordance with the provisions of this Act in a receiving centre or vagrants' home, as the case may be.

CHAPTER III.

Receiving centres and vagrants' home.

Provision of receiving centres

12. (1) The Government may provide and maintain together with the necessary furniture and establishment one or more receiving centres at such place or places as it thinks fit, or may certify by notification in the Official Gazette any existing charitable or other institution, subject to the prior consent of the controlling authority of such institution and on such conditions as may be mutually agreed upon between the Government and the said authority, to be a receiving centre for the purposes of this Act.

(2) For the purposes of this Act every receiving centre shall be under the immediate control of an officer-in-charge who shall be appointed by the Government and who shall perform his functions subject to the orders of the Controller.

(3) The Government shall also appoint for every receiving centre one or more suitably qualified persons as medical officer.

Provision of vagrants' homes

13. (1) The Government may provide and maintain together with the necessary furniture, equipment and establishment, one or more vagrants' homes at such place or places as it thinks fit and such vagrants' homes may include provision for the teaching of agricultural, industrial or other pursuits and for the general education and medical care of the inmates.

(2) Every such vagrants' home shall be under the immediate charge of a Manager who shall be appointed by the Government and who shall perform his functions subject to the orders of the Controller.

(3) The Government may appoint in respect of a vagrants' home a suitably qualified person as medical officer and one or more suitably qualified persons as teachers.

Search of vagrants

14. Every officer-in-charge of a receiving centre or Manager of a vagrants' home may order that any vagrant detained in such receiving centre or vagrants' home shall be searched and that the personal effects of such vagrant shall be inspected and any money then found with or on the vagrant shall be applied in the manner prescribed towards the welfare of vagrants and any of such effects other than money may be sold in auction and the proceeds of the sale shall be applied as aforesaid:

Provided that a female vagrant shall be searched by a female only and with due regard to decency.

Management and discipline.

15. (1) Vagrants detained in receiving centres or vagrants' homes under this Act shall be subject to such rules of management and discipline as may from time to time be prescribed.

Explanation.—Discipline includes the enforcement of the doing of manual or other work by a vagrant.

(2) If any vagrant willfully disobeys or neglects to comply with any rule referred to in sub-section (1) he shall on conviction before a Magistrate be liable to be punished with rigorous imprisonment for a term which may extend to three months.

- (3) The Government may authorize the Manager of a vagrants' home to punish any vagrant detained in such vagrants' home who willfully disobeys or neglects to comply with any rule referred to in sub-section (1) with hard labour of the type prescribed for any period not exceeding seven days; and such punishment may be in lieu of or in addition to any punishment to which the vagrant may be liable under sub-section (2).
- Transfer of vagrants from one vagrants' home to another.** 16. The Controller may by order in writing direct the transfer of a vagrant from one vagrants' home to another and a vagrant in respect of whom such an order is passed shall thereupon be sent in the manner prescribed to, and handed over to the custody of, the Manager of the vagrants' home to which he has by such order been transferred.
- Outside employment to be obtained for vagrants when possible.** 17. The Manager of a vagrants' home shall use his best endeavours to obtain outside the vagrants' home suitable employment for vagrants detained therein.
- Discharge of vagrants from vagrants' home.** 18. (1) A vagrant may be discharged from a vagrants' home under orders of the Controller -
- (a) on the Manager of such vagrants' home certifying in the prescribed manner that satisfactory employment has been obtained for such vagrant;
 - (b) on its being shown to the satisfaction of the controller that such vagrant has become possessed of an income sufficient to enable him to support himself without resorting to vagrancy;
 - (c) on a relative of such vagrant, or a person who the Controller is satisfied is interested in the welfare of such vagrant, entering into a bond with or without sureties for a sum prescribed, to look after and maintain such vagrant and to prevent him from resorting to vagrancy;
 - (d) for other good and sufficient reasons to be recorded by the Controller in writing.
- (2) When the employment referred to in clause (a) of sub-section (1) has been obtained for a vagrant, any such vagrant refusing or neglecting to avail himself thereof shall be liable to be punished on conviction before a Magistrate, with rigorous imprisonment for a term which may extend to one month.

CHAPTER IV.

Penalties and Miscellaneous.

- Punishment for employing or causing persons to ask for alms.** 19. Whoever employs or causes any person to ask for alms, or abets the employment or the causing of a person to ask for alms, or whoever, having the custody, charge, or care of a child, connives at or encourages the employment or the causing of a child to ask for alms shall be liable to be punished on conviction before a Magistrate with rigorous imprisonment for a term which may extend to two years or with fine or with both.

Punishment for refusing to go before a Special Magistrate.

20. Any person refusing or failing to accompany a police officer to, or to appear before a Special Magistrate, when required by such officer under section 6 to do so, may be arrested without warrant, and shall be liable to be punished on conviction before a Magistrate with rigorous imprisonment for a term which may extend to one month or with fine, or with both.

Punishment for refusing to submit to medical examination at receiving centre.

21. Any vagrant who refuses to submit to a medical examination by the medical officer of a receiving centre or by any person assisting such medical officer under the provisions of sub-section (2) of section 8 shall be liable to be punished on conviction before a Magistrate with rigorous imprisonment for a term which may extend to one month.

Punishment for escape from receiving centre or vagrants' home.

22. Any vagrant who escapes from any custody to which he has been committed under this Act or any rule made thereunder or who leaves a receiving centre without the permission of the officer-in-charge thereof, or who leaves a vagrants' home without the permission of the Manager thereof, or who, having with the permission of such officer-in-charge or Manager, as the case may be, left a receiving centre or a vagrants' home for a time specified under any rule referred to in sub-section (1) of section 15, willfully fails to return on the expiration of such time, may be arrested without warrant and shall for every such offence, be liable to be punished, on conviction before a Magistrate with rigorous imprisonment for a term which may extend to six months.

Procedure at end of imprisonment

23. Every person imprisoned under the provisions of sub-section (2) of section 15, sub-section (2) of section 18, section 20, section 21 or section 22 shall at the end of his term of imprisonment be brought under police custody before the nearest Special Magistrate who shall forthwith deal with such person in the manner laid down in section 7, 8 and 9 as if such person had been brought before such Special Magistrate under the provisions of section 6:

Provided that if the said Special Magistrate is of the opinion that such person would, if detained under this Act as a vagrant in a vagrants' home, be eligible to be discharged therefrom under the provisions of sub-section (1) of section 18, he may, instead of dealing with such person as aforesaid, direct that such person be released and such person shall thereupon be set at liberty.

Prosecution and jurisdiction to try offenders.

24. (1) No prosecution for an offence under this Act may be commenced except by, or with the permission of, such officer as may be prescribed in this behalf.

(2) No offence under this Act shall be triable by any Magistrate other than a Magistrate of the first class.

Persons to be deemed public servants.

25. All persons empowered to perform any function under this Act shall be deemed to be public servants within the meaning of section 21 of the Penal Code.

Indemnity.

26. No suit, prosecution or other legal proceeding shall lie against any person empowered to perform any function under this Act for anything which is in good faith done or intended to be done under this Act.

27. Repealed by E.P. Ord. XXVIII of 1960, First Schedule.

Power to make rules.

28. (1) The Government may make rules for carrying out the purpose of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

- (a) the purposes for which a person may collect money or ask for food or gifts referred to in clause (9) of section 2;
- (b) the constitution of the Board referred to in sub-section (2) of section 3;
- (c) the manner in which the summary inquiry referred to in sub-section (1) of section 7 shall be made;
- (d) the manner in which a vagrant is to be sent to a receiving centre under sub-section (1) of section 8 and the proviso to sub-section (1) of section 10;
- (e) the manner in which a medical officer is medically to examine a vagrant under sub-section (2) of section 8;
- (f) the types of works for which a vagrant may be reported fit under clause (e) of sub-section (3) of section 8;
- (g) the manner in which a vagrant is to be sent to a vagrants' home under sub-section (1) of section 9;
- (h) the manner in and the extent to which the provisions of sub-section (3) of section 9 in respect of children may be relaxed;
- (i) the manner in which the money found with or on, or the proceeds of the sale of other personal effects of, a vagrant may be applied to the welfare of vagrants under section 14;
- (j) the management and discipline referred to in sub-section (1) of section 15 to which vagrants detained in receiving centres and vagrants' homes shall be subject;
- (k) the type of the hard labour which is to form the punishment which may be awarded under sub-section (3) of section 15;
- (l) the manner in which a vagrant may be sent from one vagrants' home to another under section 16;
- (m) the manner in which the Manager of a vagrants' home is to certify under clause (a) of sub-section (1) of section 18 that satisfactory employment has been obtained for a vagrant;
- (n) the amount of the bond referred to in clause (c) of sub-section (1) of section 18;
- (o) the officer referred to in sub-section (1) of section 24.

Continuance of action taken under Bengal Ordinance II of 1943.

29. Any rules made or anything done or any action taken or any proceedings commenced in exercise of any power conferred by or under the Bengal Vagrancy Ordinance, 1943, shall, on the said Ordinance ceasing to be in operation, be deemed to have been made, done, taken or commenced in exercise of powers conferred by or under this Act as if this Act had commenced on the 30th day of July, 1943.

The Children Act, 1974

(c) 'begging' means—

- (i) soliciting or receiving alms in a public place whether or not under any pretence such as singing, dancing, fortune-telling, reciting holy verse or performing tricks;
- (ii) entering in any private premises for the purpose of soliciting or receiving alms;
- (iii) exposing or exhibiting with the object of obtaining or extorting alms any sore, wound, injury, deformity or disease;
- (iv) having no visible means of subsistence and wandering about and remaining in any public place in such condition or manner as makes it likely that the person doing so exists by soliciting or receiving alms; and
- (v) allowing oneself to be used as an exhibit for the purpose of soliciting or receiving alms;
- (d) 'certified institute' means a training institute established or any training institute, industrial school or educational institution certified by the Government under section 19;
- (e) 'Chief Inspector' means Chief Inspector of certified institutes appointed under section 30;
- (f) 'child' means a person under the age of sixteen years, and when used with reference to a child sent to a certified institute or approved home or committed by a Court to the custody of a relative or other fit person means that child during the whole period of his detention notwithstanding that he may have attained the age of sixteen years during that period;
- (g) 'Code' means the Code of Criminal Procedure, 1898 (v of 1898);
- (h) 'guardian' in relation to a child or youthful offender includes any person who, in the opinion of the Court having cognizance of any proceedings in relation to the child or youthful offender, has for the time being the actual charge of, or control over, the said child or youthful offender;
- (i) 'Juvenile Court' means a Court established under section 3;
- (j) 'place of safety' includes a remand home, or any other suitable place or institutions, the occupier or manager of which is willing temporarily to receive a child or where such remand home or

* Repealed by Ord. V of 1982
The Children Act, 1974
(Act No. XXXIX of 1974)

An Act to consolidate and amend the law relating to the custody, protection and treatment of children and trial and punishment of youthful offenders.

Whereas it is expedient to consolidate and amend the law relating to the custody, protection and treatment of children and trial and punishment of youthful offenders.

It is hereby enacted as follows:

PART-1

Preliminary

1. Short title and commencement:— (1) This Act may be called the Children Act, 1974.

(2) It shall come into force in such areas and on such as the Government may, by notification in the official Gazette, specify.

2. Definitions:— In this Act, unless there is anything repugnant in the subject or context,—

(a) 'adult' means a person who is not a child;

(b) 'approved home' means any institution which is established by any association or body of individuals and recognised by the Government for the reception or protection of or prevention of cruelty to, children and which undertakes to bring up, or give facilities for bringing up, any child entrusted to its care in conformity with the religion of his birth;

suitable place or institution is not available, in the case of a male child only, a police-station in which arrangements are available or can be made for keeping children in custody separately from the other offenders;

- (k) 'Prescriber' means prescribed by rules made under this Act;
- (l) 'Probation Officer' means a probation Officer appointed under section 31;
- (m) 'supervision' means the placing of a child under the control of a Probation Officer or other person for the purpose of securing proper care and protection of the child by his parent, guardian, relation or any other fit person to whose care the child has been committed; and
- (n) 'youthful offender' means any child who has been found to have committed an offence.

PART-II

Powers and Functions of Courts having Jurisdiction Under the Act

3. Juvenile Courts.— Notwithstanding anything contained in the Code, the Government may, by notification in the official Gazette, establish one or more Juvenile Courts for any local area.

4. Courts empowered to exercise powers of Juvenile Court.— The powers conferred on a Juvenile Court by this Act shall also be exercisable by—

- (a) the High Court Division,
- (b) a Court of Session,
- (c) a Court of an Additional Sessions Judge and of an Assistant Sessions Judge,
- (d) a Sub-Divisional Magistrate, and
- (e) a Magistrate of the first class,

whether trying any case originally or on appeal or in revision.

5. Powers of Juvenile Courts, etc.—(1) When a Juvenile Court has been established for any local area, such Court shall try all cases in which a child is charged with the commission of an offence and shall deal with and dispose of all other proceedings under this Act, but shall not have power to try

any case in which an adult is charged with any offence mentioned in Part V) of this Act.

(2) When a Juvenile Court has not been established for any local area, on Court other than a Court empowered under section 4 shall have power to try any case in which a child is charged with the commission of an offence or to deal with or dispose of any other proceeding under this Act.

(3) When it appears to a Juvenile Court or a Court empowered under section 4, such Court being subordinate to the Court of Session, that the offence with which a child is charged is triable exclusively by the Court of Session, it shall immediately transfer the case to the Court of Session for trial in accordance with the procedure laid down in this Act.

6. No joint trial of child and adult.—(1) Notwithstanding anything contained in section 239 of the Code or any other law for the time being in force, no child shall be charged with, or tried for, any offence together with an adult.

(2) If a child is accused of an offence for which under section 239 of the Code or any other law for the time being in force such child but for the provisions of sub-section (1) could have been tried together with an adult, the court taking cognizance of the offence shall direct separate trials of the child and the adult.

7. Sitings, etc. of Juvenile Court.— (1) A Juvenile Court shall hold its sittings at such places, on such days and in such manner as may be prescribed.

(2) In the trial of a case in which a child is charged with an offence a Court shall, as far as may be practicable, sit in a building or room different from that in which the ordinary sittings of the Court are held, or on different days or at different times from those at which the ordinary sittings of the Court are held.

8. Adult to be committed to sessions in a case to be committed to sessions.—(1) When a child is accused along with an adult of having committed an offence and it appears to the Court taking cognizance of the offence that the case is a fit one for committal to the Court of Sessions, such Court shall after separating the case in respect of the child from that in respect of the adult direct that the adult alone be committed to the Court of Session for trial.

42) The case in respect of the child shall then be transferred to a Juvenile Court if there is one or to a Court empowered under section 4, if there is no Juvenile Court for the local area, and the Court taking cognizance of the offence is not so empowered:

Provided that the case in respect of the child shall be transferred of the Court of Session under section 5 (3) if it is exclusively triable by the Court of Session in accordance with the Second Schedule of the Code.

1. Presence of persons in Juvenile Courts.— Save as provided in this Act, no person shall be present at any sitting of a juvenile court except—

(a) the members and officer of the Court;
(b) the parties to the case or proceeding before the Court and other persons directly concerned in the case or proceeding including the police officers;

(c) parents or guardians of the child; and

(d) such other persons as the Court specially authorises to be present

12. Withdrawal of persons from Courts.— If at any stage during the hearing of a case or proceeding, the Court considers it expedient in the interest of the child to direct any person, including the parent, guardian or the spouse of the child, or the child himself to withdraw, the court may give such direction and thereupon such person shall withdraw.

13. Dispensing with attendance of child.— If at any stage during the hearing of a case or proceeding, the Court is satisfied that the attendance of a child is not essential for the purpose of the hearing of the case or proceeding, the Court may dispense with his attendance and proceed with the hearing of the case or of the proceeding in the absence of the child.

14. Withdrawal of persons from court when child is examined as witness.— If at any stage during the hearing of a case or proceeding in relation to an offence against, or any conduct contrary to, decency or morality, a child is summoned as a witness, the Court hearing the case or proceeding may direct such persons as it thinks fit, not being parties to the case or proceeding, their legal advisers and the officers concerned with the case or proceeding, to withdraw and thereupon such person shall withdraw.

15. Attendance at court of parent of a child charged with offence, etc.—(1) Where a child brought before a Court under this Act has a parent or guardian, such parent or guardian may in any case, and shall, if he

can be found and if he resides within a reasonable distance, be required to attend the Court before which any proceeding is held under this Act, unless the Court is satisfied that it would be unreasonable to require his attendance.

(2) Where the child is arrested, the officer in charge of the police-station to which he is brought shall forthwith inform the parent or guardian, if he can be found, of such arrest, and shall also cause him to be directed to attend the Court before which the child will appear and shall specify the date of such appearance.

(3) The parent or guardian whose attendance shall be required under this section shall be the parent or guardian having the actual charge of, or control over, the child:

Provided that if such parent or guardian is not the father, the attendance of the father may also be required.

(4) The attendance of the parent of a child shall not be required under this section in any case where the child was, before the institution of the proceedings, removed from the custody or charge of his parent by an order of a Court.

(5) Nothing in this section shall be deemed to require the attendance of the mother or female guardian of a child, but any such mother or female guardian may appear before the Court by an advocate or agent

14. Committal to approved place of child suffering from dangerous disease.— (1) When a child, who has been brought before a Court under any of the provisions of this Act, is found to be suffering from a disease requiring prolonged medical treatment or a physical or mental complaint that is likely to respond to treatment, the Court may send the child to a hospital or to any other place recognised to be an approved place in accordance with the rules made under this Act for such period as it may think necessary for the required treatment

(2) Where a Court has taken action under sub-section (1) in the case of child suffering from an infectious or contagious disease, the Court, before restoring the said child to his partner in marriage, if there is one, or to the guardian, as the case may be, shall, where it is satisfied that such action will be in the interest of the said child, call upon his partner in marriage or the guardian, as the case may be, to satisfy the Court by submitting to medical

examination that such partner or guardian will not reinfect the child in respect of whom the order has been passed.

15. Factors to be taken into consideration in passing orders by courts.— For the purpose of any order which a court has to pass under this Act, the Court shall have regard to the following factors:—

- (a) the character and age of the child;
- (b) the circumstances in which the child is living;
- (c) the reports made by the Probation Officer; and
- (d) such other matters as may, in the opinion of the Court, require to be taken into consideration in the interest of the child:

Provided that where a child is found to have committed an offence, the above factors shall be taken into consideration after the Court has recorded a finding against him to that effect.

16. Reports of Probation Officer and other reports to be treated confidential.—The report of the Probation Officer or any other report considered by the Court under section 15 shall be treated as confidential:

Provided that if such report relates to the character, health or conduct of, or the circumstances in which, the child or the parent or guardian of such child is living, the Court may, if it thinks expedient, communicate the substance thereof to the child, or the parent or guardian concerned and may give the child or the parent or guardian of such child an opportunity to produce evidence as may be relevant to the matters stated in the report.

17. Prohibition on publication of report disclosing identity, etc. of child involved in cases.— No report in any newspaper, magazine or news-sheet nor any news giving agency shall disclose any particular or any case or proceeding in any Court under this Act in which a child is involved and which leads directly or indirectly to the identification of such child, nor shall any picture of such child be published:

Provided that, for reasons to be recorded in writing, the Court trying the case or holding the proceeding may permit the disclosure of any such report, if in its opinion, such disclosure is in the interest of child welfare and is not likely to affect adversely the interest of the child concerned.

18. Provisions of Criminal Procedure Code, 1898, to apply unless excluded.— Except as expressly provided under this Act or the rules made thereunder, the procedure to be followed in the trial of cases and the

holding of proceedings under this Act shall be in accordance with the provisions of the Code.

PART III

Certified Institutes And Other Institutions

19. Establishment and certification of Institutes.— (1) The Government may establish and maintain training institute for the reception of children and youthful offenders.

(2) The Government may certify that any training institute not established under sub-section (1) or any industrial school or other educational institution is fit for the reception of children or youthful offenders.

20. Remand Homes.— The Government may establish and maintain remand homes for the purposes of detention, diagnosis and classification of children committed to custody by any Court or police.

21. Conditions for certification or recognition of institutes, etc.—The Government may prescribe conditions subject to which any training institute, industrial school, educational institution or approved home shall be certified or recognised, as the case may be, for the purpose of this Act.

22. Management of certified institutes.— (1) For the control and management of every training institute established under section 19 (1), a superintendent and a committee of visitors shall be appointed by the Government, and such superintendent and committee shall be deemed to be managers of the institute for the purpose of this Act.

(2) Every institute, school or institution certified under section 19(2) shall be under the management of its governing body, the members of which shall be deemed to be managers of the institute, school or institution for the purposes of this Act.

23. Consultation with managers.— The managers of a certified institute shall be consulted by the Court before any child is committed to it.

24. Medical inspection of certified institutes and approved homes.— Any registered medical practitioner empowered in this behalf by the Government may visit any certified institute or approved home at any time with or without notice to its managers or other persons in charge thereof in order to report to the Chief Inspector on the health of the inmates and the sanitary condition of the certified institute or approved home.

25. Power of the Government to withdraw certificate.— The Government, if dissatisfied with the management of a certified institute, may at any time by notice served on the managers of the institute declare that the certificate of the institute is withdrawn as from a date specified in the notice and on such date the withdrawal of the certificate shall take effect and the institute shall cease to be a certified institute.

Provided that before the issue of such notice a reasonable opportunity shall be given to the managers of the certified institute to show cause why the certificate shall not be withdrawn.

26. Resignation of certificate by managers.— The managers of a certified institute may, on giving six months' notice in writing to the Government through the Chief Inspector of their intention so to do, resign the certificate of the institute and accordingly at the expiration of six months' from the date of notice, unless before that time the notice is withdrawn, the resignation of the certificate shall take effect and the institute shall cease to be a certified institute.

27. Effect of withdrawal or resignation of certificate.— A child or youthful offender shall not be received into a certified institute under this Act after the date of receipt by the managers of the institute of a notice of withdrawal of the certificate or after the date of a notice of resignation of the certificate.

Provided that the obligation of the managers to teach, train, lodge, cloth and feed any child or youthful offender detained in the institute at the respective dates aforesaid shall, except so far as the Government otherwise directs, continue until the withdrawal or resignation of the certificate takes effect.

28. Disposal of inmates on withdrawal or resignation of certificate.— When an institute ceases to be a certified institute, the children or youthful offenders detained therein shall be either discharged absolutely or on such conditions as the Government may impose or may be transferred by order of the Chief Inspector to some other certified institute in accordance with the provisions of this Act relating to discharge and transfer.

29. Inspection of certified institutes and approved homes.— Every certified institute and approved home shall be liable to inspection at all times and in all its departments by the Chief Inspector, Inspector or Assistant

Inspector of certified institutes and shall be so inspected at least once in every six months.

Provided that where any such certified institute is for the reception of girls only and such inspection is not made by the Chief Inspector, the inspection shall, wherever practicable be made by a woman authorised by the Chief Inspector in that behalf.

PART IV

Officers And Their Powers And Duties

30. Appointment of Chief Inspector, etc.— (1) The Government may appoint a Chief Inspector of such institutes and such number of Inspectors and Assistant Inspectors of certified institutes as it thinks fit to assist the Chief Inspector.

(2) The Chief Inspector shall have such powers and duties as this Act specifies and as may be prescribed.

(3) Every Inspector or Assistant Inspector shall have such of the powers and duties of the Chief Inspector as the Government may direct and shall act under the direction of the Chief Inspector.

31. Appointment of Probation Officers.— (1) The Government may appoint a Probation Officer in each district.

Provided that where there is no person so appointed in a district any other person may be appointed as a Probation Officer from time to time by a Court, in that district for any particular case.

(2) A Probation Officer, in the performance of his duties under this Act, shall be under supervision and guidance of the Juvenile Court where such Court exists or, where there is no such Court, the Court of Session.

(3) A Probation Officer shall, subject to the rules made under this Act and to the directions of the Court—

- (a) visit or receive visits from the child at reasonable intervals;
- (b) see that the relative of the child or the person to whose care such child is committed observes the conditions of the bond;
- (c) report to the court as to the behaviour of the child;
- (d) advise, assist and befriend the child and where necessary, endeavour to find him suitable employment; and
- (e) perform any other duty which may be prescribed.

PART V

Measures For The Care And Protection of Destitute And Neglected Children

32. Children found homeless, destitute etc.— (1) A Probation Officer or a Police Officer not below the rank of Sub-Inspector of Police or any other person authorised by the Government in this behalf may bring before a Juvenile Court or a Court empowered under section 4 any person who, in his opinion is a child and who—

- (a) has no home, settled place of abode or visible means of subsistence, or no parent or guardian exercising regular and proper guardianship; or
- (b) is found begging or is found doing for a consideration any act under circumstances contrary to the well being of the child; or
- (c) is found destitute and his parent or other guardian is undergoing transportation or imprisonment; or
- (d) is under the care of a parent or guardian who habitually neglects or cruelly ill-treats the child;
- (e) is generally found in the company of any reputed criminal or prostitute not being his parent or guardian; or
- (f) is residing in or frequenting a house used by a prostitute for the purpose of prostitution and is not the child of that prostitute; or
- (g) is otherwise likely to fall into bad association or to be exposed to moral danger or to enter upon a life of crime.

(2) The Court before which a child referred to in sub-section (1) is brought shall examine the information and record the substance of such examination, and if it thinks there are sufficient grounds for making further inquiry, it shall fix a date for the purpose.

(3) On the date fixed for the inquiry under sub-section (2) or on any subsequent date to which the proceedings may be adjourned, the Court shall hear and record all relevant evidence which may be adduced for and against any action that may be taken under this Act and may make any further inquiry it thinks fit.

(4) If the Court is satisfied on such inquiry that such person is a child as described in sub-section (1) and that it is expedient so to deal with him, the Court may order him to be sent to a certified institute or approved home or

may order him to be committed in the prescribed manner to the care of a relative or other fit person named by the Court and willing to undertake such care, until such child attains the age of eighteen years, or for any shorter period.

(5) The Court which makes an order committing a child to the care of a relative or other fit person may, when making such order, require such relative or other person to execute a bond, with or without sureties, as the Court may require, to be responsible for the good behaviour of the child and for the observance of such other conditions as the Court may impose for securing that the child may lead an honest and industrious life.

(6) The Court which makes an order committing a child to the care of a relative or other fit person under this section may, in addition order that he be placed under the supervision of a Probation Officer or other fit person named by the Court.

33. Un-controllable children— (1) Where the parent or guardian of a child complains to a Juvenile Court or to a court empowered under section 4 that he is unable to control the child, the Court may, if satisfied on inquiry that it is expedient so to deal with the child to be committed to a certified institute or an approved home for a period not exceeding three years.

(2) The Court may also, if satisfied that home conditions are satisfactory and what is needed is supervision, instead of committing the child to a certified institute or approved home place him under supervision of a Probation Officer for a period not exceeding three years.

PART VI

Special Offences In Respect of Children

34. Penalty for cruelty to child.— If any person over the age of sixteen years, who has the custody, charge or care of any child assaults, ill-treats, neglects, abandons or exposes such child or causes such child to be assaulted, ill-treated, neglected, abandoned or exposed in a manner likely to cause such child unnecessary suffering or injury to his health, including loss of sight or hearing or injury to limb or organ of the body and any mental derangement, such person shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to Taka one thousand, or with both.

36. **Penalty for being drunk while in charge of child.**— If any person is found drunk in any public place, whether a building or not, while having the charge of a child, and if such person is incapable by reason of his drunkenness of taking due care of the child, such person shall be punishable with fine which may extend to Taka one hundred.

37. **Penalty for giving intoxicating liquor or dangerous drug to child.**— Whoever in any public place, whether a building or not gives or causes to be given to any child any intoxicating liquor or dangerous drug except upon the order of a duly qualified medical practitioner in case of sickness or other urgent case shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to Taka five hundred, or with both.

38. **Penalty for permitting child to enter places where liquor or dangerous drugs are sold.**— Whoever takes a child to any place where intoxicating liquor or dangerous drugs are sold, or being the proprietor, owner or a person in charge of such place, permits a child to enter such place, or whoever causes or procures a child to go to such place, shall be punishable with fine which may extend to Taka five hundred.

39. **Penalty for inciting child to bet or borrow.**— Whoever by words either spoken or written or by signs or otherwise incites or attempts to incite a child to make any bet or wager or to enter into or take any share or interest in any betting or wagering transaction or so incites a child to borrow money or to enter into any transaction involving the borrowing of money shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to Taka two hundred, or with both.

40. **Penalty for taking on pledge or purchasing articles from child.**— Whoever takes an article on pledge from a child, whether offered by that child on his own behalf or on behalf of any person, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to Taka five hundred, or with both.

41. **Penalty for allowing child to be in brothel.**— Whenever allows or permits a child over the age of four years to reside in or frequently to go to a brothel shall be punishable with imprisonment for a term which may

extend to two years, or with fine which may extend to Taka one thousand, or with both.

42. **Penalty for causing or encouraging seduction.**— Whenever having the actual charge of, or control over, a girl under the age of sixteen years causes or encourages the seduction or prostitution of that girl or causes or encourages any person other than her husband to have sexual intercourse with her shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to Taka one thousand, or with both.

Explanation.— For the purposes of this section, a person shall be deemed to have caused or encouraged the seduction or prostitution of a girl if he has knowingly allowed the girl to consort with, or to enter or continue in the employment of, any prostitute or person of known immoral character.

43. **Young girls exposed to risk of seduction.**— If it appears to a Court on the complaint of any person that a girl under the age of sixteen years is with or without the knowledge of her parent or guardian, exposed to the risk of seduction or prostitution, the Court may direct the parent or guardian to enter into a recognisance to exercise due care and supervision in respect of such girl.

44. **Penalty for exploitation of child employees.**— (1) Whenever secures a child ostensibly for the purpose of menial employment or for labour in a factory or other establishment, but in fact exploits the child for his own ends, withholds or lives of his earnings, shall be punishable with fine which may extend to Taka one thousand.

(2) Whoever secures a child ostensible for any of the purposes mentioned in sub-section (1), but exposes such child to the risk of seduction, sodomy, prostitution or other immoral conditions shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to Taka one thousand, or with both.

(3) Any person who avails himself of the labour of a child exploited in the manner referred to in sub-section (1) or sub-section (2), or for whose immoral gratification such child is used, shall be liable as an abettor.

45. Penalty for abetting escape of child or youthful offender.— Whoever—

(a) Knowingly assists or induces, directly or indirectly, a child or youthful offender detained in or placed out on license from a certified institute or approved home to escape from the institute or home or from any person with whom he is placed out on license or any child to escape from the person in whose custody he is committed under this Act; or

(b) Knowingly harbours, conceals or prevents from returning to certified institute or approved home or to any person with whom he is placed out on license or to the person to whose custody he is committed under this Act a child or youthful offender who has so escaped, or knowingly assist in so doing,

shall be punishable with imprisonment for a term which may extend to two months, or with fine which may extend to Taka two hundred, or with both.

46. Penalty for publication of report or pictures relating to child.— Whoever publishes any report or picture in contravention of the provisions of section 17 shall be punishable with imprisonment for term which may extend to two months,¹ or with fine which may extend to Taka two hundred, or with both.

47. Offence under this part cognizable.— Notwithstanding anything contained in the Code, all offences under this part shall be cognizable.

PART VII

Youthful Offenders

48. Bail of child arrested.— Where a person apparently under the age of sixteen years is arrested on a charge of a non-bailable offence and cannot be brought forthwith before a Court, the officer-in-charge of the police-station to which person is brought may release him on bail, if sufficient security is

forthcoming, but shall not do so where the release of the person shall bring him into association with any reputed criminal or expose him to moral danger or where his release would defeat the ends of justice.

49. Custody of child not enlarged on bail.— (1) Where a person apparently under the age of sixteen years having been arrested is not released under section 48, the officer-in-charge of the police-station shall cause him to be detained in a remand home or a place of safety until he can be brought before a court.

(2) A Court, on remanding for trial a child who is not released on bail, shall order him to be detained in a remand home or a place of safety.

50. Submission of information to Probation Officer by police after arrest.— Immediately after the arrest of a child, it shall be the duty of the police officer, or any other person affecting the arrest, to inform the Probation Officer of such arrest in order to enable the said Probation Officer to proceed forthwith in obtaining information regarding his antecedents and family history and other material circumstances likely to assist the Court in making its order.

51. Restrictions or punishment of child.— (1) Notwithstanding anything to the contrary contained in any law, no child shall be sentenced to death, transportation or imprisonment.

Provided that when a child is found to have committed an offence of so serious a nature that the Court is of opinion that no punishment, which under the provisions of this Act it is authorised to inflict, is sufficient or when the Court is satisfied that the child is of so unruly or of so depraved character that he cannot be committed to a certified institute and that none of the other methods in which the case may legally be dealt with is suitable, the Court may sentence the child to imprisonment or order him to be detained in such place and on such conditions as it thinks fit:

Provided further that no period of detention so ordered shall exceed the maximum period of punishment to which the child could have been sentenced for the offence committed:

Provided further that at any time during the period of such detention the Court may, if it thinks fit, direct that in lieu of such detention the youthful offender be kept in a certified institute until he has attained the age of eighteen years.

(2) A youthful offender sentenced to imprisonment shall not be allowed to associate with adult prisoners.

52. **Commitment of child to certified institute.**— Where a child is convicted of an offence punishable with death, transportation or imprisonment, the court may, if it considers expedient so to deal with the child, order him to be committed to a certified institute for detention for a period which shall be not less than two and not more than ten years, but not in any case extending beyond the time when the child will attain the age of eighteen years.

53. **Power to discharge youthful offenders or to commit him to suitable custody.**— (1) A Court may, if it thinks fit, instead of directing any youthful offender to be detained in a certified institute under section 52, order him to be—

- (a) discharged after due admonition, or
- (b) released on probation of good conduct and committed to the care of his parent or other adult relative or other fit person on such parent, guardian, relative or person executing a bond, with or without sureties, as the Court may require, to be responsible for the good behaviour of the youthful offender for any period not exceeding three years, and the Court may also order that the youthful offender be placed under the supervision of a Probation Officer.

(2) If it appears to the Court on receiving a report from the Probation Officer or otherwise that the youthful offender has not been of good behaviour the period of his probation, it may, after making such inquiry as it deems fit, order the youthful offender to be detained in a certified institute for the unexpired of probation.

54. **Power to order parent to pay fine, etc.**—(1) Where a child is convicted of an offence punishable with fine, the Court shall order that the fine

be paid by the parent or guardian of the child, unless the Court is satisfied that the parent or guardian cannot be found or that he has not conduced to the commission of the offence by neglecting to exercise due care of the child.

(2) Where a parent or guardian is directed to pay a fine under sub-section (1), the amount may be recovered in accordance with the provision of the Code.

PART VIII

Measures For Detention, Etc., Children And Youthful Offenders

55. **Detention of child in place of safety.**— (1) Any Probation Officer or police officer not below the rank of Assistant Sub-inspector or a person authorised by the Government in this behalf may take to a place of safety any child in respect of whom there is reason to believe that an offence has been or is likely to be committed.

(2) A child so taken to a place of safety and also any child who seeks refuge in a place of safety may be detained until he can be brought before a court.

Provided that such detention shall not, in the absence of a special order of the Court, exceed a period of twenty-four hours exclusive of the necessary for journey from the place of detention to the Court.

(3) The court may thereupon make such order as hereinafter provided.

56. **Court's power for care and detention of child.**— (1) Where it appears to the Court that there is reason to believe that an offence as stated in section 55 has been committed or is likely to be committed in respect of any child who is brought before it and that it is expedient in the interest of the child that action should be taken under this Act, the Court may make such order as circumstances may admit and require for the care and detention of the child until a reasonable time has elapsed for the institution of proceedings against the person for having committed the offence in respect of the child or for the purpose of taking such other lawful action as may be necessary.

(2) The order of detention made under sub-section (1) shall remain in force until such time as the proceedings instituted against any person for an offence referred to in sub-section (1) terminate in either conviction, discharge or acquittal.

(3) An order passed under this section shall be given effect to notwithstanding that any person claims the custody of the child.

57. Victimised child to be sent to Juvenile Court.- Any Court by which a person is convicted of having committed an offence in respect of a child or before which a person is brought for trial for any such offence shall direct the child concerned to be produced before a Juvenile Court, where there is no Juvenile Court, a Court empowered under section 4 for making such orders as it may deem proper.

58. Order for committal victimised children.- The Court before which a child is produced in accordance with section 57 may order the child-

- (a) to be committed to a certified institute or an approved home until such child attains the age of eighteen years or, in exceptional cases, for a shorter period, the reasons for such shorter period to be recorded in writing, or
- (b) to be committed to the care of a relative or other fit person on such bond, with or without surety, as the Court may require, such relative or fit person being willing and capable of exercising proper care, control and protection of the child and of observing such other conditions including, where necessary, supervision for any period not exceeding three years, as the Court may impose in the interest of the child:

Provided that, if the child has a parent or guardian fit and capable, in the opinion of the Court, of exercising proper care, control and protection, the Court may allow the child to remain in his custody or may commit the child to his care on bond, with or without surety, in the prescribed form and for the observance of such conditions as the Court may impose in the interest of the child.

59. Supervision of victimised children.- The Court which makes an order committing a child the care of his parent, guardian or other fit person

under the foregoing provisions may, in addition, order that he be placed under supervision.

60. Breach of supervision.- If it appears to the Court on receiving a report from the Probation Officer or otherwise that there has been a breach of the supervision order relating to the child in respect of whom the supervision order had been passed, it may, after making such inquiries as it deems fit, order the child to be detained in a certified institute.

61. Warrant to search for child.- (1) If it appears to a Juvenile Court or a Court empowered under section 4 from information on oath or solemn affirmation laid by any person who, in its opinion, is acting in the interest of the child that there is reasonable cause to suspect that an offence has been or is being committed or unless immediate steps be taken will be committed in respect of the child, the Court may issue a warrant authorising any police officer named therein to search for such child and if it is found that he has been or is being wilfully ill-treated or neglected in the manner hereinbefore stated or that any offence has been or is being committed in respect of the child, to take him to and detain him in a place of safety until he can be brought before it and the Court before which the child is brought may, in the first instance, remand him in the prescribed manner to a place of safety.

(2) The Court issuing a warrant under this section may, by the same warrant, direct that any person accused of any offence in respect of the child be apprehended and brought before it or direct that if such person executes a bond with sufficient sureties for his attendance before the Court at a specified time and thereafter until otherwise directed by the Court the officer to whom the warrant is directed shall take such security and shall release such person from custody.

(3) The police officer executing the warrant shall be accompanied by the person laying the information if such person so desires and may also, if the Court by which the warrant is issued so directs, be accompanied by a duly qualified medical practitioner.

(4) In any information or warrant under this section the name of the child shall be given, if known.

PART IX

Maintenance and Treatment of Committed Children

62. Contribution of parent.- (1) The Court which makes an order for the detention of a child or youthful offender in a certified institute or approved home or for commitment of a child or youthful offender to the care of a relative or fit person may make an order or the parent or other person liable to maintain the child or youthful offender, to contribute to his maintenance, if able to do so, in the prescribed manner.

(2) The Court before making any order under sub-section (1) shall enquire into the circumstances of the parent or other person liable to maintain the child or youthful offender and shall record evidence, if any, in the presence of the parent or such other person, as the case may be.

(3) Any order made under this section may be varied by the Court on an application made to it by the party liable or otherwise.

(4) The person liable to maintain a child or youthful offender shall, for the purpose of sub-section (1), include in the case of illegitimacy his putative father.

Provided that, where the child or youthful offender is illegitimate and an order for his maintenance has been made under section 488 of the Code, the Court shall not ordinarily make an order for contribution against the putative father but may order the whole or any part of the sums accruing due under the said order for maintenance to be paid to such person as may be named by the Court and such sums shall be applied by him towards maintenance of the child or youthful offender.

(5) Any order under this section may be enforced in the same manner as an order under section 488 of the Code.

63. Provision as to religion.- (1) In determining the certified institute, approved home or fit person or other person to whose custody a child is to be committed under this Act, the Court shall ascertain the religious denomination of the child and shall, if possible, in selecting such certified institute, approved home or fit person have regard to the facilities which are afforded for instruction in his religion.

(2) When a child is committed to the care of a certified institute or approved home in which facilities for instruction in his religion are not

afforded, or is entrusted to the care of a person who has no special facilities for the bringing up of the child in his religion, the authorities of such certified institute or approved home, or such fit person shall not bring the child up in any religion other than his own.

(3) Where it is brought to the notice of the Chief Inspector that a breach of sub-section (2) has been committed, the Chief Inspector may transfer the child from the custody of such certified institute, or approved home or fit person to any other certified institute or approved home as he may deem proper.

64. Placing out on licence.- (1) When a youthful offender or child is detained in a certified institute or approved home, the managers of the institute or home may, at any time, with the consent in writing of the Chief Inspector, by licence, permit the youthful offender or child, on such conditions as may be prescribed, to live with any trustworthy and respectable person named in the licence willing to receive and take charge of him with a view to train him for useful trade or calling.

(2) Any licence so granted shall be in force until revoked or forfeited for the breach or any the conditions on which it was granted.

(3) The managers of the certified institute or approved home may, at any time by order in writing, revoke any such licence and order the youthful offender or child to return to the institute or home, as the case may be, and shall do so at the desire of the person to whom the youthful offender or child is licensed.

(4) If the youthful offender or child refuses or fails to return to the certified institute or approved home, the managers of the institute, or home, as the case may be, may, if necessary, arrest him, or cause him to be arrested, and may take him, or cause him to be taken, back to the institute or home, as the case may be.

(5) The time during which a youthful offender or child is absent from a certified institute or approved home in pursuance of a licence under this section shall be deemed to be part of the time of his detention in the institute or home, as the case may be.

Provided that, when a youthful offender or child has failed to return to the institute or home, as the case may be, on the licence being revoked or forfeited, the time which elapses after his failure so to return shall be excluded

in computing the time during which he is detained in the institute or home, as the case may be.

65. Action by police with escaped children- (1) Notwithstanding anything to the contrary contained in any law for the time being in force, any police officer may arrest without a warrant a child or youthful offender who has escaped from a certified institute or approved home or from the supervision of a person under whose supervision he was directed to remain, and shall send the child or youthful offender back to the certified institute or approved home or the person, as the case may be, without registering any offence or prosecuting the child or youthful offender and the said child or youthful offender shall not be deemed to have committed any offence by reason of such escape.

(2) When a child absconding from a certified institute or approved home has been arrested, he shall be detained in a place of safety pending his removal to the certified institute or approved home, as the case may be.

PART X

Miscellaneous

66. Presumption and determination of age-(1) Whenever a person, whether charged with an offence or not, is brought before any criminal Court otherwise than for the purpose of giving evidence, and it appears to the Court that he is a child, the Court shall make an inquiry as to the age of that person and, for that purpose, shall take such evidence as may be forthcoming at the hearing of the case, and shall record a finding thereon, stating his age as may be.

(2) An order or judgment of the Court shall not be invalidated by the subsequent proof that the age of such person has not been correctly stated by the Court, and the age presumed or declared by the Court to be the age of the person so brought before it shall, for the purpose of this Act be deemed to be the true age of that person and, where it is of the age of sixteen years or upwards, the person shall, for the purpose of this Act, be deemed not to be a child.

67. Discharge- (1) The Government may, at any time order a child or youthful offender to be discharged from a certified institute or approved home, either absolutely or on such condition as the Government may specify.

(2) The Government may, at any time, discharge a child from the care of any person to whose care he is committed under this Act either absolutely or on such conditions as the Government may specify.

68. Transfer between institutions- (1) The Government may order any child or youthful offender to be transferred from one certified institute or approved home to another.

(2) The Chief Inspector may order any child to be transferred from one certified institute or approved home to another.

69. Compensation for false information- (1) If in any case in which information has been laid by any person under the provisions of section 61, the Court after such inquiry as it may deem necessary is of opinion that such information is false and either frivolous or vexatious, the Court may, for reason to be recorded in writing, direct that compensation to such amount not exceeding Taka one hundred as it may determine be paid by such informer to the person against whom the information was lodged.

(2) Before making any order for the payment of the compensation, the Court shall call upon the informer to show-cause why he should not pay compensation and shall consider any cause which such informer may show.

(3) The Court may by the order directing payment of the compensation further order that in default of payment person ordered to pay such compensation shall suffer simple imprisonment for a term not exceeding thirty days.

(4) When any person is imprisoned under sub-section (3), the provisions of sections 68 and 69 of the Penal Code (XLV of 1860), shall, so far as may be, apply.

(5) No person who has been directed to pay compensation under this section shall by reason of such order be exempted from any civil liability in respect of the information, but any amount paid as compensation shall be taken into account in any subsequent civil suit relating to such matter.

70. Removal of disqualification attaching to conviction-
When a child is found to have committed any offence, the fact that he has been so found shall not have any effect under section 75 of the Penal Code (XLV of 1860) or section 565 of the Code or operate as a disqualification for any office, employment or election under any law.

71. Words 'conviction' and 'sentenced' not to be used in relation to children.- Save as provided in this Act, the words 'conviction' and 'sentenced' shall cease to be used in relation to children or youthful offenders dealt with under this Act, and any reference in any enactment to a person conviction or a sentence shall, in the case of a child or youthful offender be construed as a reference to a person found guilty of an offence, a finding of guilty or an order made upon such a finding, as the case may be.

72. Custodian's control over child.- Any person to whose care a child is committed under the provisions of this Act shall, while the order is in force, have the like control over the child as if he were his parent, and shall be responsible for his maintenance, and the child shall continue in his care for the period stated by the Court notwithstanding that he is claimed by his parent or any other person.

73. Bonds taken under the Act.- The provisions of Chapter XLII of the Code shall, so far as may be, apply to bonds taken under this Act.

74. Chief Inspector, Probation Officers, etc. to be public servants.- The Chief Inspectors, Assistant Inspectors, Probation Officers and other persons authorised or entitled to act under any of the provisions of this Act shall be deemed to be public servants within the meaning of section 21 of the Penal Code (XLV of 1860).

75. Protection of action taken under the Act.- No suit, prosecution or other legal proceedings shall be instituted against any person for anything which is in good faith done or intended to be done under this Act.

76. Appeals and revisions.- (1) Notwithstanding anything contained in the Code, an appeal from an order made by a Court under the provisions of this Act shall lie:-

- (a) if the order passed by a Juvenile Court or a Magistrate empowered under section 4, to the Court of Session; and
- (b) if the order is passed by a Court of Session or court of an Additional Sessions Judge or of an Assistant Sessions Judge, to the High Court Division.

(2) Nothing in this Act shall affect the powers of the High Court Division to revise any order passed by a Court under this Act.

77. Power to make rules.- (1) The Government may make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for-

- (a) the procedure to be followed by Juvenile Courts and other Courts empowered under section 4 in the trial of cases and the hearings of proceedings under this Act;
- (b) the places at which, dates on which and the manner in which a Juvenile Court shall hold its sittings under section 7(1);
- (c) the conditions subject to which institutions, industrial schools or other educational institutions shall be certified or approved homes shall be recognised for the purposes of this Act;
- (d) the establishment, certification, management, maintenance, records and accounts of certified institutes;
- (e) the education and training of inmates of certified institutes and the leave of absence of such inmates;
- (f) the appointment of visitors and their tenure of office;
- (g) the inspections of certified institutes and approved homes;
- (h) the internal management and discipline of certified institutes and approved homes;
- (i) the conditions subject to which institutions shall be recognised as approved places for the purpose of section 14 (1);
- (j) the powers and duties of the Chief Inspector and Probation Officers; the manner of authorising persons for the purposes of sections 32 and 55;
- (l) the form of bond under the proviso to section 58;
- (m) the manner in which a child shall be remanded to a place of safety under section 61 (1);
- (n) the manner in which contribution for the maintenance of child may be ordered to be paid under section 62 (1);
- (o) the condition under which a child may be released on licence and the form of such licence under section 64;
- (p) the conditions subject to which a child may be committed to the care of any person under this Act and the obligations of such person towards the child so committed; and
- (q) the manner of detention of a child under arrest or remanded to police custody for trial.

2. Repeals etc.- (1) The Bengal Children Act, 1922 (Ben. Act II of 1922) is hereby repealed.

(2) The Reformatory Schools Act, 1897 (VIII of 1897), shall be deemed to be repealed in any area in which this Act is brought into force under section 1 (3) from the date of such enforcement.

(3) The provisions of sections 29-B and 399 of the Code shall cease to apply to any area in which this Act shall be brought into force.

Salient features of the Children Act of 1974

(a) Section 2 (f) - A child means a person under age of 16;

(b) Section 4- The High Court Division, a Court of Sessions including an Asstt. Sessions Judge, and a Magistrate of the 1st Class can exercise the power of a Juvenile Court under this Act, whether trying any case originally or on appeal or in revision;

(c) Section 6- No joint trial of child and adult;

(d) Section 7- Sitting etc. of Juvenile Courts different from sittings, days and times of ordinary courts;

(e) Section 8- The case of a Juvenile Offender to be separated and transferred to the Juvenile Court and the court empowered to exercise the powers of a Juvenile Court;

(f) Section 11 A Juvenile Court may appoint Probation Officers from among suitable persons in the district, if there be no Probation Officer in its area and may appoint a Probation Officer for a particular juvenile considering his religion and the availability of religious facilities;

(g) Section 50- The Police are legal obligation to report and co-operate with the Probation Officers;

(h) Section 16 - Secrecy of the report of the Probation Officers and the proceedings of the Juvenile Court from press to avoid stigma and to facilitate full rehabilitation of the Juvenile in future.

Steps taken by Govt. Concerning Juvenile Delinquency

In order to cope with the increasing problem of juvenile delinquency, the Govt. of Bangladesh established three institutions specially aimed at improving juvenile justice and correctional services. They are (1) A juvenile court, (2) A remand home & (3) A correctional institute for juvenile delinquents under the department of social services. All the three institutions have been recognized as National Institution appreciating the importance and dimension of the problem. All the three institutions are located at Tongi by the side of Dhaka-Mymensingh highway and they are first institution of this kind in Bangladesh which came into being in June, 1978. The correctional services and programmes of juvenile offenders are carried out in different phases through the juvenile court, remand home and correctional institute.

Juvenile Court

The juvenile court consists of one full time Magistrate of the 1st class, one Probation Officer, one Prosecution Officer etc. with a total manpower of ten including M.L.S.S. This court firstly had territorial jurisdiction over the area of greater Dhaka district and at present it can exercise its jurisdiction throughout Bangladesh and deals exclusively with juveniles under 16. The provisions of this court aims at separate arrangements for each child towards his well-being and ultimate rehabilitation. Upto 31 January 1983 there are 26 under trial juvenile offenders before this juvenile court.

As to the admission system, juvenile offender come to this court by two ways: (a) By police & (b) By their parents or guardians.

Police Case

When a juvenile offenders commits an offence punishable under the Penal Code and a case is filed with the police station, such a case is disposed of by the juvenile court. In such case may be transferred to the juvenile court from any court or any police-station in Bangladesh. Ministry of Home Affairs of the Government of Bangladesh issued memo. No. 112 (80) Bidhi/H. A (Jail-1), dt. 11 March 1982 with a direction to all concerned to forward the case records, connected papers and the juvenile offenders to the juvenile court on consideration that if the juvenile offenders are kept in different jails with the adult and notorious offenders, the juvenile offenders might become real

is coming in contact with the adult and notorious offenders. Those who committed offences and were caught by police, are sent to the court by police with their respective charge sheet. In these cases one Police Officer always present in the court as a Prosecutor. A juvenile offender may engage a lawyer but it is generally not needed. In such a case the report of Probation Officer or case worker is duly considered by the presiding officer of the court. The total number of under trial inmates in police cases from the year 1978 upto January 1988 is 304 and the number of inmates committed to the correctional institute for same period in police cases is 165.

A case worker or a Probation Officer can also detain and forward a juvenile offender to the juvenile court as per provisions of section 32 of the Children Act 1974, if is noticed by them that a juvenile is shelterless, floating having no means for livelihood to lead an honest life, or is engaged in begging, or juvenile is neglected or tortured by his guardians or is living in a brothel coming in contact with an organized gang. But such reference of the case by the case worker or Probation Officer to the juvenile court is rare and almost nil for want of wide publicity of the legal provisions and co-operation of the people and the ignorance of the Police Officer of the Thana level.

Parents/Guardians Cases

When a child is beyond the control of his parents or guardians, the parents or guardians can submit an application to the court with a court fee of Tk. 3, two cartridge papers and one Vokalanama (power) with a total cost of about Tk. 5 only. The parents/guardians can also submit application to the Juvenile Court direct by themselves and in case of necessity may consult the Superintendent of the correctional institute or any other official staff. After hearing the parents/guardians the learned Magistrate may pass an order for remand in the Remand Home of the juvenile offender and may fix a date for final hearing. In the meantime the inquiry report is called from the Probation Officer or case worker and the case is generally disposed of on the basis of such report. Before disposal of the case the Probation Officer/case worker generally keeps the juvenile under close observations, visits his house, interrogates the parents/guardians and the available witnesses and collects all possible data and thereafter the report is submitted before the court and with the co-operation of such officers the Juvenile Court delivered its judgment

having regards to the fundamental objective that the juvenile is to be reformed rather than to be punished. Such cases are disposed of as per provisions of sec. 33 of the Children Act, 1974 and the Juvenile Court, if satisfied on the inquiry report, order the child offenders to be committed to a certified institute or an approved home and the presently available correctional institute within the same campus for a period not exceeding three years. If the court is satisfied that home conditions are satisfactory and supervision is needed, instead of committing the child to the correctional institute, place him under the supervision of a Probation Officer for a period not exceeding three years.

The total number of under trial inmates in guardian cases from 1978 upto January 1988 is 2725 and the number of inmates committed to the correctional institute in guardian cases for the same period is 1871.

It is to be specially noted that in the judgment of the juvenile court the term "conviction", "sentence" or "punishment" are not used to avoid stigma of the juvenile offender and the verdict does not go in the criminal record of the juvenile offender to facilitate his full rehabilitation in the society in future.

Remand Home

The remand home was established for the purpose of detention, diagnosis and classification of children committed thereto by the court. It is not the traditional remand home or Hajat Khana rather in spirit it may be termed as the observation centre. The juvenile offender is kept in this remand home for the interim period between the taking up of the case for hearing and the disposal of the case. During that period the Inquiry Officer keeps close watch over the child and interrogates him to find out his real character, probable data and the causes for commission of crime. During this detention period the Probation Officer also collects informations from parents/guardians of the juvenile offender and submits a report before the court accordingly. During the stay in remand home the child can enjoy the privileges of participating in different games and sports and can continue his studies but vocational training cannot be given during that short period. The remand home provides not only physical security, clean environment and healthy living conditions but also opportunities to make behavioural observations as well as inquiries on individual with regards to children's family and social backgrounds etc.

GOVERNMENT OF THE PEOPLES REPUBLIC OF BANGLADESH

MINISTRY OF LAW AND LAND REFORMS

(Law and Parliamentary Affairs Division)

NOTIFICATION

Dhaka , the 7th September , 1982

No. 535 – Pub. – The following ordinance made by the Chief Martial Law Administrator of the peoples Republic of Bangladesh , on the 6th September , 1982 is hereby published for general information.

THE EMIGRATION ORDINANCE , 1982

Ordinance No. XXIX of 1982

ORDINANCE

To repeal and , with certain amendments , re-enact the Emigration Act , 1922

WHERE AS it is expedient to repeal and with certain amendments , re-enact the Emigration Act , 1922 (VII of 1922) , for the purposes hereinafter appearing ;

NOW , THEREFORE , in pursuance of the Proclamation of the 24th March , 1982 and in exercise of all powers enabling him in that behalf , the Chief Martial Law Administrator is pleased to make and promulgate the following Ordinance :

1. Short title , application and commencement , - (1) this Ordinance may be called the Emigration Ordinance , 1982

(a) It applies to all citizens of Bangladesh wherever they may be.

(b) It shall come into force on such date as the Government may , by notification in the official Gazette , appoint; and defferent dates may be appointed for different provisions of this Ordinance.

2. Definitions.- (1) In this Ordinance , unless there is anything repugnant in the subject or context , -

(a) "citizen" means a citizen of the Peoples Republic of Bangladesh ;

(b) "demand" means any requirement or offer for employment; or workers by a foreign or Bangladeshi Employer , having any project or contract or establishment abroad , which is supported by visa instructions or work permit from the competent Government authority of the country of employment ;

(c) "depart" and "departure" means the departure out of Bangladesh of any person for employment by any foreign or Bangladeshi employer or for self employment by any means;

(d) "dependent" means any women or child who is related to an emigrant and any aged or incapacitated relative of an emigrant ;

- (e) "emigrant" means any person who emigrates or is assisted emigrate or has emigrated under this Ordinance and includes any dependent of an emigrant;
- (f) "emigrate" and "emigration" means the departure by sea, air or land out of Bangladesh of any person for the purpose or with the intention of working for wages or engaging in any trade, profession or calling in any country beyond the limits of Bangladesh;
- (g) "licence" means a document issued by the Government authorising a person or an entity to operate as recruiting agent for employment abroad;
- (h) "newspaper" shall have the same meaning as defined in the Printing Press and Publications (Declaration and Registration) Act, 1973 (XXIII of 1973);
- (i) "overseas employment" means employment of a citizen outside Bangladesh;
- (j) "prescribed" means prescribed by rules made under this Ordinance;
- (k) "recruiting agent" means a person licensed under section 10;
- (l) "recruit" means issuing a letter of appointment signing contracts for employment abroad by a foreign or Bangladeshi employer, making preliminary arrangements for selecting persons for employment abroad through advertisement, publicity, letter, preparation of panel, verbally or in written, and any other steps towards furtherance of the objectives of the employment of a citizen abroad;
- (m) "Registrar" means a Registrar of Emigrants appointed under this Ordinance; and
- (n) "rules" means rules made under this Ordinance;

- (2) In case of any doubt or dispute arising otherwise than in the course of any proceedings, as to whether a person is an emigrant within the meaning of this Ordinance, the question shall be determined by the Government and such determination shall be final.

3. Appointment of Registrar or Emigrants.- (1) The Government may appoint a person to be a Registrar or Emigrants and define the area to which the authority of a Registrar so appointed shall extend.

- (2) Every Registrar shall be a public servant within the meaning of section 21 of the penal Code (Act XLV of 1860).

4. Duties and functions of the Registrar.- Every Registrar shall, in addition to the duties assigned to him by or under this Ordinance, perform such functions as may be assigned to him by the Government.

5. Agents in foreign countries.- The Government may, for the purpose of safeguarding the interest of emigrants and promoting overseas employment appoint persons to be agents in any place outside Bangladesh and may define their powers and duties.

6. Delegation of certain authority.- The Government may authorise any authority subordinate to it to –

- (a) promote emigration of citizens;
- (b) contract and regulate such emigration; and
- (c) look after the interest and welfare of emigrants at home and abroad.

7. Regulation for emigration.- (1) Emigration for overseas employment shall not be lawful from any port or place except from such ports or places as the

Government may, by notification in the official Gazette, declare to be ports or places from which such emigration is lawful.

- (2) No person shall, unless he possesses a valid demand, recruit or attempt to recruit any citizen for overseas employment except in accordance with the provisions of this Ordinance and the rules made thereunder.
- (3) Notwithstanding anything contained in any other law for the time being in force, emigration of a citizen shall be lawful, if he is in possession of valid travel documents with registration endorsement under sub-section (4) of section 11, and –
 - (a) he is in possession of a letter of appointment or a work permit from a foreign employer, or an employment or emigration visa from a foreign Government; or
 - (b) he has been selected for emigration by a foreign employer through an organization or authority or by a recruiting agent, recognized by the Government in this behalf or under an agreement or treaty between the Government and a foreign Government.

8. Power to prohibit emigration of workers.- (1) If the Government having regard to the occupation, profession, vocation or qualification of any person or class of person is satisfied that emigration of such person or class of person is not in the public interest, it may, by order, prohibit the emigration of such person or class of persons and thereupon the departure of such person or class of person otherwise than in accordance with such order shall not be lawful.

- (2) Notwithstanding the provisions of sub-section (1), where the Government has reason to believe that sufficient grounds exist for prohibiting emigration or any person or any class of persons to any country, it may, by notification in the official Gazette, declare that emigration of such person or class of persons to that country shall cease to be lawful from a date specified in the notification; and from that date such emigration to that country shall accordingly cease to be lawful.

9. Prohibition of advertisement, etc.- (1) No person or organization shall, except with the prior permission of the Government or any authority designated, recruit or attempt to recruit a citizen for overseas employment or issue an advertisement or publish any material or hold any interview or examination for such recruitment for the purpose of emigration.

- (2) No newspaper shall publish any advertisement for employment abroad unless it is satisfied that the same is intended to be issued with the Government approval or clearance.

10. Grant of licence.- (1) Whoever desires to engage, or to recruit, or to assist any person to emigrate shall to the Government, for licence at such time and in such manner, and shall with his application, furnish such information and documents and pay such security and fee as may be prescribed.

- (2) On receiving an application under sub-section (1), the Government may after such inquiry regarding the character, antecedents and solvency of the applicant as it may consider necessary, grant the licence applied for on such

terms and conditions , if any, as may be prescribed, or reject the application for licence.

- (3) The decision of the Government under sub-section (2), shall be final and shall not be questioned if any court of law.
- (4) A licence under this section may be issued in favor of a citizen or in favor of a corporation , company, partnership firm or any other entity, if –
 - (a) in the case of corporation or company , at least sixty percent of the stock of the corporation or the company , and
 - (b) in the case of a partnership firm or any other entity , at least sixty percent of the capital or property right of the firm or the entity is owned or controlled by Bangladeshi citizens.

11. Appearance of emigrants before the Registrar, etc,- (1) Before any person depart from Bangladesh , the person by whom he has been engaged or assisted shall appear in person or by his duly authorised agent before the Registrar and furnish such information regarding terms of his engagement or contract, and such other matters concerning his selection as may be prescribed.

- (2) If the person departing from Bangladesh is directly appointed or recruited by a foreign Government or organization or agency or by other foreign employers, such person shall furnish required information to the Registrar.
- (3) If the Registrar is satisfied that the terms of agreement under which a person has been engaged or assisted are in conformity with the terms on the basis of which the licence to recruit was granted, he shall register in a book to be kept for the purpose such particulars concerning the person engaged or assisted and his dependands, if any , and the person engaging or assisting him in such form as may be prescribed.
- (4) Registration of person departing Bangladesh shall be endorsed on their passports by the Registrar.

12. Registration of emigrants residing abroad,- An emigrant residing abroad and who has not been registered under this Ordinance shall get himself registered with such Labor Attaché or, in this absence, with any such other officer as may be specified by the Government in this behalf and such registration shall be reported to the Registrar.

13. Non-transferability of licence or authority,- (1) No license shall be used, directly or indirectly , by any person other than the person in whose favour it was issued or at any place other than the place mentioned in the licence nor shall the licence be transferred , conveyed or assigned to any person or entity.

- (2) No transfer of the business address or designation of any agent or representative mentioned in the license shall be made without prior approval of the Government.

14. Cancellation , suspension, forfeiture of security ,etc.- (1) If at any time during the pendency of a licence , the Government is satisfied , after making such enquiry as it may deem necessary, that the licensee has been guilty of misconduct or

that his conduct or performance as a licensee has been unsatisfactory or that he has violated any of the provisions of this Ordinance or the rules made thereunder or the prescribed Code of Conduct, it may, after giving the licensee an opportunity of being heard, by order in writing, cancel the licence or suspend it for a period to be specified in the order and may also forfeit the security furnished by him under section 10 in full or in part

- (2) The security money forfeited under sub-section (1) may be –
 - (a) paid to an affected person, or
 - (b) utilised for repatriating of any stranded person in foreign country or for such other purpose as the Government may deem appropriate in the public interest.
- (3) On expiry of the period for which the licence is granted or on the intimation by the licensee that he does not intend to continue to act as a recruiting agent and on being satisfied that no ground for forfeiting the security in whole or on part exists. The Government may order the refund of the security or part thereof to the person by whom it was furnished or to his authorized representative.

15. Power to withdraw licence,- Notwithstanding anything to the contrary contained in this Ordinance, if, at any time, the Government is satisfied that it is necessary in the public interest to discontinue the practice of granting licence to recruiting agents. It may, by notification in the official Gazette, withdraw all licences granted under section 10.

16. Decision under section 14 and 15 to be final,- The decisions of the Government under sections 14 and 15 shall be final and shall not be questioned in any court of law.

17. Inspection, etc., to ensure compliance with the provisions of the Ordinance,- The Government may, for the enforcement of the provisions of this Ordinance and the rules made thereunder, appoint such officers as it may deem fit and an officer so appointed may-

- (a) enter into any office or premise maintained or used by any person or entity in connection with the recruitment of emigrants for overseas employment;
- (b) require and enforce the production of any books of accounts and records maintained by such person or entity and inspect such books of accounts and records; and
- (c) examine such person or entity and obtain from him or its statement in writing in this behalf.

18. Power to search and detain vessels- All the powers for the time being conferred by law on officers of customs with regard to the searching and detention of vessels may be exercised for the prevention of offences under this Ordinance by any such officer or by any officer authorised by the Government in this behalf.

19. Power to make rules.-(1) The Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.

- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

- (a) powers and duties of officers appointed by the Government under the Ordinance;
- (b) the licensing, supervision and control of persons engaged in recruiting person for overseas employment or causing or assisting person to emigrate and in the conveyance and accommodation of emigrants, and the probation of unlicensed persons from doing so engaged;
- (c) the establishment, supervision and regulation of any place of accommodation provided for emigrants and for their medical care while resident here;
- (d) the forms to be maintained and the returns to be submitted by persons licensed in accordance with the rules made under clauses (b);
- (e) the manner of inspection of premises, books of accounts and records of any person or entity connected with recruitment of emigrants for overseas employment;
- (f) the information to be furnished by recruiting agents to emigrants and the language in which such information is to be furnished;
- (g) appearance of emigrants before the Registrar and furnishing information under section 11;
- (h) fees to be paid by a recruiting agent to the Registrar for each emigrant departing Bangladesh;
- (i) setting up training, orientation and briefing centres to guide and advise intending emigrants and their dependants proceeding abroad;
- (j) recall and repatriation, in the public interest, of an emigrant;
- (k) measures to be adopted for the welfare of emigrants and their dependants;
- (l) disposal of complaints against recruiting agents;
- (m) formation of an association of recruiting agents and framing of Code of Conduct to be observed by recruiting agents;
- (n) service charge to be paid to a recruiting agent;
- (o) depositing of fees and securities by a recruiting agent;
- (p) procedure for sending of emigrants by persons possessing secured contract or sub-contract for the purpose;
- (q) the security, well-being and protection of emigrants ; and
- (r) fees receivable from persons recruited and going abroad for employment.

20. Unlawful emigration.- (1) Whoever, except in conformity with the provisions of this Ordinance and the rules made thereunder, emigrants or attempts to emigrate or departs or attempts to depart shall be punishable with imprisonment for a term which may extend to one year simple imprisonment or with fine not exceeding Taka five thousand or with both.

- (2) Whoever, except in conformity with the provisions of this Ordinance or the rules made thereunder,-
 - (a) makes or attempts to make, any agreement with any person purporting to bind that person, or any other person, to emigrate, or
 - (b) cause or assists, or attempts to cause or assist any person to emigrate or depart or to attempt to emigrate or depart or to leave any place for the purpose of emigrating or departing, or
 - (c) causes any person engaged, assisted or recruited by him, after grant of the license under section 10 to depart without appearing

- before the Registrar as required under section 10 to depart without appearing before the Registrar as required under section 11, or
- (d) furnishes or publishes information or notice or document in relation to recruitment for employment abroad, or
- (e) substitutes or alters any employment contract approved and verified by the Registrar, or
- (f) withholds or denies travel documents from a prospective emigrant for monetary or financial consideration other than those authorised under this Ordinance, shall be punishable with rigorous imprisonment for a term which may extend to five years, or with fine, or with both.

(3) When in the course of any proceeding in connection with emigration in which a recruiting agent or a person or an organisation is concerned, a breach of the provisions of this Ordinance or the rules made thereunder is committed, such agent or, as the case may be, person or organisation shall be liable to the punishment provided by sub-section (2), unless he proves that he was not responsible for and could not have prevented the commission of the breach.

(4) A person who recruits a citizen or holds and interview or examination or issues and advertisement or such recruitment in contravention of the provisions of section 9 shall be liable to the punishment provided by sub-section (2).

21. Fraudulently inducing to emigrate.- Whoever by means of intoxication, coercion or fraud, causes or induces, or attempts to cause or induce, any person to emigrate, or enter into a agreement to emigrate, or leave any place with a view to emigrating, shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both.

22. False representation of Government authority.- Whoever falsely represents that any emigrant is required by the Government or is to be engaged on behalf of the Government, shall be punishable with imprisonment for a term which may extent to five years, or with fine, or with both.

23. Receiving money, etc., for providing foreign employment.- Whoever for providing or securing, or on the pretext of providing or securing, to or for any person, employment in and country beyond the limits of Bangladesh-

- (a) being a recruiting agent, charges and fee in addition to the prescribed amount;
- (b) not being a recruiting agent, demands or receives or attempts to receive, for himself or for any other person and money or other valuable thing; shall be punishable with imprisonment for a term which may extend to five years, or with fine or with both.

24. Penalty for Contravention of agreement.- Whoever contravenes the terms of the agreement with his foreign employer by abandoning his employment or otherwise, shall, after the repatriation to Bangladesh, be punishable with fine which may extend to five thousand taka.

25. Recovery of expenditure for repatriation, etc.- (1) The amount of expenditure, if any, incurred by the Government for repatriation to Bangladesh of

a person who is convicted of an offence punishable under sub-section (1) of section 20 or section 24, shall be recoverable from such person in accordance with the provision of the Public Demands Recovery Act, 1913 (Ben. Act III of 1913).

(2) The Government may recover the amount involved in an offence under section 21 in accordance with the provisions of the Public Demands Recovery Act, 1913 (Ben. Act III of 1913) and the amount so recovered shall be paid to the person who had paid it.

26. Special courts.- (1) The Government may, by notification in the official Gazette, establish as many special courts as is considers necessary for trial of offences under this Ordinance and, where it establishes more than one special court, shall specify in the notification the headquarters of each special court and the territorial limits within which it shall exercise jurisdiction under this Ordinance.

(2) Court established under the Industrial Relations Ordinance, 1969 (XXIII of A special court shall consist of a person who is the Chairman of a Labour 1969).

(3) A special court shall take cognizance of, and have jurisdiction to try, an offence punishable under this Ordinance only upon a complaint in writing made by such person as the Government may, by a general or special order, authorised in this behalf.

(4) A special court trying an offence under this Ordinance shall try such offence; summarily and in trying such offences, such special court shall follow the procedure laid down in the Code of Criminal Procedure, 1898 (Act V of 1898) for summary trial.

27. Indemnity.- So suit, prosecution or other legal proceeding shall lie against the Government. Registrar or any person for anything in good faith done or intended to be done under this Ordinance.

28. Ordinance not to apply to certain persons.- This Ordinance shall not apply to the departure of a person-

- (a) who is not a citizen of Bangladesh, or
- (b) who is in the service of the Republic or of a local authority and it proceeding on duty, or on training, or leave, or for employment with any international organisation, with the permission of the Government, or
- (c) who is engaged as a member of the crew on board a foreign-going vessel, or
- (d) who is a dependent of a citizen already resident or employed in a foreign country and is on a temporary visit to Bangladesh.

29. Repeal and savings.- (1) The Emigration Act, 1922 (VII of 1922). Shall stand repealed in relation to any provision in respect of which this Ordinance comes into force.

(2) Notwithstanding such repeal.-

- (a) anything done or any action taken or any rule made or any notification issued or any proceeding commenced under the provisions of the said Act, shall, in so far as it is not inconsistent with the provisions of this Ordinance, be deemed to have been done, taken, made, issued or commenced, as the case may be, under the corresponding provision of this Ordinance; and
- (b) all case pending before any court immediately before the commencement this Ordinance shall be tried and disposed of by such court, and all matters in connection with such cases shall be regulated in accordance with the provisions of the said Act, as if the said Act has no been repealed by this ordinance.

Dhaka
The 6th September

H.M. Ershad, ndc, psc
Lieutenant General
Chief Martial Law Administrator

Shamsur Rahman
Deputy Secretary

Unofficial English translation of the
Nari O Shishu Nirjaton Doman Act, 2000
(Suppression of Violence Against Women and
Children Act, 2000)

NOT AN OFFICIAL TRANSLATION

[in the form recommended by the Standing Committee]

[moved in the National Parliament]

Bill

moved to make necessary provisions for combating rigorously the offences relating to repression of women and children.

Whereas, it has been necessary and deemed fit to rigorously subdue the offences relating to the repression of women and children;

now, therefore, the following act is made :

1. Short title : This act shall be called as, Suppression of Violence against Women and Children Act, 2000.
2. Definition . Notwithstanding something contrary to the object or context, in this act --

- (a) "Offence" means any offence punishable under this act;
- (b) "kidnapping/abduction" means compelling a person to move from one place to another by applying force or by seduction, or by a false impression;
- (c) "detention" means detaining any person at a place against his/her will;
- (d) "tribunal" means any tribunal constituted under this act;
- (e) "Rape" means rape defined under Section 375 of the Penal Code, 1860 (Act XL.V of 1860), subject to the provision 9 ;
- (f) "newborn baby" means a baby of age under 40 days;
- (g) "woman" means woman of any age;
- (h) "Ransom" means monetary or any other facility;
- (i) "Criminal Procedure Code" means Code of Criminal Procedure, 1989(Act V of 1898)

(j) "Dowry" means money, material or other kinds of assets paid or agreed to be paid, directly or indirectly, at the time of marriage or before marriage or during continuance of marriage ,or on condition of marriage remaining fixed, or as dowry for the marriage, by the side of the bride to the father or mother of the bridegroom or any other person on the side of the bridegroom or money, material or other kinds of assets claimed on the said condition or as dowry by the father or mother of the bridegroom or any other person on the side of the bridegroom from the bride or any person on the side of the bride.

(k) "child" means any person of age not exceeding 14 (fourteen);

(l) " High Court Division" means "High Court Division of the Bangladesh Supreme Court."

3. The Primacy of the Act . Notwithstanding contained whatsoever in any other law, the provisions of this act shall remain effective.

4. The punishment for committing offence by inflammable substances.

Section 4. Punishment for committing offences by inflammable substances:

(1) If any person causes the death, or attempts to cause the death of a woman or child by throwing inflammable, corrosive or poisonous substances, that person shall be punishable with death or rigorous imprisonment for life and, in addition, a fine not exceeding Taka one lac (Taka 100,000).

(2) If any person causes injury to any woman or child by throwing inflammable, corrosive or poisonous substances which causes the hearing capacity or eyesight of the said woman or child to be impaired, or any limb/organ, gland or any other part of the body is disfigured or wounded –

(a) in cases of impairment of eyesight or hearing capacity or disfigurement or impairment of the face, breast or sex organ, that person shall be punishable with death or rigorous imprisonment for life and, in addition, a fine not exceeding Taka one lac (Taka 100,000).

(b) in cases of impairment or disfigurement of any other part or organ of the body, that person shall be punishable with imprisonment which may extend to fourteen years but shall not be less than seven years and, in addition, a fine not exceeding Taka fifty-thousand (Taka 50,000).

(3) If anybody throws or attempts to throw inflammable, corrosive or poisonous substances on a woman or child, even if that woman or child was not injured or affected physically, mentally or otherwise, that person shall be punishable with rigorous imprisonment which may extend to seven years but shall not be less than three years and, in addition, a fine not exceeding Taka fifty-thousand (Taka 50,000).

(4) The fine specified under the Section shall be realised from the convicted person or his wealth and assets and be given as compensation to the successors of the victim who has died as a result of the attack, or, as per the circumstances, the person who has been physically or mentally injured by the attack.

5. The punishment for trafficking in women. (1) if any person, with the intention of engaging in prostitution or illegal and immoral acts brings in from abroad and send woman out of the country, or deals in purchase and sale of woman, or delivers women on hire or hands her over for oppressing them otherwise, or for such other purpose, he/she keeps in his/her possession, or custody, the said person shall be liable for punishment with death sentence or with imprisonment for life or imprisonment not exceeding 20 but no lesser than 10 years of rigorous imprisonment and a cash fine in addition.

(2) If any woman was sold, given on hire or handed over otherwise to any prostitute, keeper or manager of brothel, the person who so handed over the said woman, unless proved otherwise, he shall be deemed to have sold the said woman to engage her in prostitution and be liable to punishment stipulated in Sub-Section (1) ;

(3) If any keeper of brothel or, any person engaged in the management of brothel buy or hire any woman or take possession otherwise or keeps in his custody in that case, unless otherwise proved, shall be deemed to have bought or hired or possessed or have taken into

custody with the intention of using the said woman as Prostitute and the said person shall be punishable with the punishment stipulated in Sub-Section(1).

6. Punishment for Child trafficking. (1) if any person brings in from abroad and sends out of the country any child or deals in buying and selling children with any illegal or immoral purpose or takes possession of , keeps in own custody with the said purpose, he shall be liable to punishment with death sentence or, rigorous imprisonment for life and cash fine in addition.

(2) If any person steals newborn baby from hospital, child home, maternity center, nursing home, clinic etc. or from the custody of the guardian of the said children , he shall be liable to punishment stipulated in Sub-Section(1).

7. Punishment for kidnapping of women and children. - If any person kidnaps any woman or child with intention otherwise than committing offence stated in Section 5 , the said person shall be liable for punishment with life term or with minimum of 14 years' rigorous imprisonment and a cash fine in addition.

8. Punishment for realizing ransom. if any person, with the intention of realizing ransom detains any woman or child he shall be liable to punishment with death sentence or rigorous life term imprisonment and a cash fine in addition.

9. Punishment for Rape , Death caused by rape etc. - (1) If any man rapes a woman or a child, in that case, he shall be liable for punishment with rigorous life term punishment and cash fine in addition.

Explanation : - if any man out of wedlock, engages in sex with a woman over Fourteen years of age with or without her consent or he does it by intimidation or by securing her consent through deception, or he does so with a woman under fourteen years of age with or without her consent he shall be deemed to have raped that woman.

(2) If a woman or child raped dies in consequence of subsequent acts otherwise of the person involved , in that case the person concerned shall be liable to punishment with death sentence, rigorous imprisonment for life and cash fine no lesser than Taka One Lac in addition.

(3) If more than one person involve in gang raping of any woman or child and the said woman or the child dies in consequence, in that case, each person of the gang shall be liable to punishment with death or rigorous imprisonment for life and cash fine no lesser than Taka one lac fine in addition.

(4) If any person --

(a) attempts to cause death or wound by raping, he shall be liable for punishment with rigorous imprisonment for life and cash fine in addition;

(b) attempts at rape , he shall be liable to punishment with rigorous imprisonment for not exceeding ten years but no lesser than five years and cash fine in addition.

(5) If any woman is raped while in police custody, and so by the those in whose custody she was at the time of occurrence and such person or persons who were directly responsible for her safe custody he or each of them , unless proved otherwise shall be

liable to punishment with rigorous imprisonment of not exceeding ten but no lesser than five years and cash fine also in addition.

10. Punishment for Sexual Harassment etc. (1) If any man, to get his sexual desire gratified illegally he touches, by any of his organ or any object, the sex organ of a woman or a child, the act as such by him shall constitute sexual harassment and for that he shall be liable for punishment with rigorous imprisonment for not exceeding ten but no lesser than three years and cash fine also in addition.

(2) Any man if he violates modesty of a woman or makes obscene gesture to her to get his sexual desire illegally his act as such shall constitute sexual harassment and for that he shall be punishable with not exceeding seven years but no lesser than two years of rigorous imprisonment.

11. Punishment for causing death for dowry etc. if the husband of any woman or father, mother, guardian, relative of the husband or any other person on behalf of the husband causes death and attempt to cause death, injures her or attempts to injure her, the said husband, father, mother, guardian, relative or the person on his side shall be liable to punishment for --

(a) causing death or attempt to cause death with rigorous imprisonment for life and in both cases, cash fine also in addition;

(b) injuring with rigorous imprisonment for not exceeding fourteen years but no lesser than five years and in both cases with cash fine also in addition.

Section 12. Punishment for dissection of limbs of children with intention of engaging them in begging: Any person who maims a child by impairing the hand, leg, eye, or any other organ of a child, or otherwise cripples or disfigures him/her for the purpose of begging or to sell their limbs shall be punishable with death or rigorous imprisonment for life and, in addition, a fine.

13. Provision governing child born as a consequence of rape. -- Notwithstanding anything otherwise provided for in other law, in case of a child born in consequence of the rape --

(a) the rapist shall bear the responsibility for the maintenance of that child;

(b) The tribunal may determine in whose care the child after birth shall stay with and what amount of cost the rapist shall pay to the caretaker of the child;

(c) If the said child is not crippled, in case of a male child this cost shall be payable until the boy attains age of twenty one years and in case of a female one, until she is married and in case of a crippled child, until he/she is able to maintain him/herself.

14. Restrictions in the matter of disclosure of the identity of repressed women and children in the News Media. (1) Information relating to the offence that has taken place and the legal proceedings concerning such a woman or a child, fallen victim to the offence stated in this act, his name and address or any other information otherwise could be published or given in such a manner in any news paper or any other news medium so that the identity of the said woman or the child is not revealed.

(2) In case of violation of the provision contained in Sub-Section (1), the person or persons responsible shall be liable to punishment with imprisonment not exceeding two years or a fine not exceeding Taka One Lac or both.

15. Realization of cash fine from the future property. The tribunal may treat cash fine imposed by it for the offences mentioned under the Sections : 4 to 14 of this act, if necessary, as compensation for the persons affected because of the offence and may realize the money on account of the fine or compensation, if not possible now from the punished person or from his existing assets, from the assets and properties that the punished person would own in future and in such cases, the claim for the said fine or the compensation shall have primacy over other claims.

16. The procedure for realization of cash fine or compensation. -- In the matter of the cash fine, if any, imposed under this act, the tribunal may order the concerned District Collector through the procedure determined by the rules or in absence of such rules, through the procedure determined by the tribunal, to sale the movable or immovable property or both of the offender by attachment or auction sale and without attachment by direct auction sale of such properties after making a list of them, deposit the sale proceeds with the Tribunal and the tribunal shall arrange paying such money to the person affected because of the offence committed.

Section 17. Punishment for lodging false cases and complaints: (1) if any person lodges a false case or complaint against another person under any Section of the Act with the knowledge that there was no justifiable or legal grounds for doing so, that person shall be punishable with rigorous imprisonment for a term which may extend to seven years and, in addition, a fine.

(2) The Tribunal may take cognizance and continue trial upon written complaint by any person for the offence committed under Sub-Section 1.

18. Investigation of Offence .(1) The investigation of the offence under this act shall have to be completed by the concerned police officer within sixty days after receiving the information of the occurrence of the offence or after the magistrate issues order for investigation of the offence.

Provided that the Investigation Officer if, upon showing special reason, could satisfy the tribunal that the time limit for the investigation ought to have been extended in the interest of justice, the Tribunal may extend the time limit for a period not exceeding thirty days.

(2) In such cases where investigation remain incomplete within the time-limit specified in Sub-Clause (a) or within the extended time-limit, the tribunal, after expiry of the said time-limit, in any time during the trial of the case, if, in view of any petition or in the interest of justice is satisfied to the effect that it is necessary to complete investigation of certain offence or in appropriate cases further investigation into it is needed, may order completing the investigation or further investigation in an additional period not exceeding thirty days.

(3) In case of failure of the investigation officer to complete investigation within the time-specified under Sub-Section(2), the Tribunal may --

(a) order the concerned authority to complete the investigation by any other officer within a period not exceeding thirty days; and,

(b) after noting the failure of the investigation officer to complete the investigation within the period determined under this Section as inefficiency, instruct his controlling authority for taking measures.

(4) After review of information concerning the investigation after the submission of the report, if the tribunal is satisfied to the effect that in the interest of justice it is desirable that certain person mentioned as an accused should be made an witness in that case, it may order to treat the said person as witness instead of being an accused.

(5) If, after taking deposition of the case, it appears to the Tribunal that an investigation officer, with the object of saving some one from the burden of the offence or by willful negligence in the investigation by not collecting or considering some exhibit which could be used for proving the offence or by making the said person a witness instead of making him an accused and by not examining some important witness, has submitted the investigation report, the tribunal, noting the said action or negligence of the said officer as inefficiency or in appropriate cases, misconduct, it may order the controlling authority of the investigation officer for taking appropriate legal action against him.

(6) The tribunal, in view of any petition or on the basis of other information, may order the concerned authority for assigning any other investigation officer in place of the investigation officer.

19. Cognizance of the offence etc. – (1) All offences under this act shall be cognizable.

(2) All offences under this act shall be non-bailable.

(3) Subject to other provisions of this act, no accused or punishable person shall not be released on bail if —

- (a) the prosecuting side was not allowed opportunity of being heard on the petition for his release; and
- (b) the court is satisfied to the effect that there is reasonable ground for his being convicted for charge/complaint brought against him; or
- (c) the said person is a woman or child or physically crippled and the tribunal is not satisfied to the effect that the justice would not be impeded if the said person was released on bail.

20. Trial Procedure . (1) Any offence under this law shall only be tried in the Women and Children Anti-Repression Tribunal constituted under Section 25 of this act.

(2) The hearing of a case, once it starts in the tribunal shall continue at a stretch each working day till it is finished.

(3) The Tribunal shall complete the trial within one hundred and eighty days from the date of receiving the case for trial.

(4) If the trial of the case is not finished within the time-limit set under Sub-Section (3), the tribunal may release the accused in the case on bail and if the accused is not released so, the tribunal shall record the reasons for it.

(5) If a tribunal judge leaves on transfer without completing trial of any case, in that event, at the stage of trial of the case he has left, the judge taking over his place shall take up from that stage and the deposition of any witness, if any, taken by his predecessor shall not be required to be taken once again.

Provided that if the judge, in the interest of justice deem it unavoidable to take deposition of any witness once again, in that event, he may summon any witness whose deposition was taken once and take his deposition again.

(6) In trying any offence under Section 9, the tribunal, in view of any petition, if it deems fit, may take deposition of the woman raped or any witness in camera..

(7) If a child is accused on charges of committing offence under this act or if he is witness to such offence, in his case, the provisions of the Children Act, 1974 (XXXIX of 1974) has to be followed as far as possible.

21. Trial in Absence of the Accused. (1) If the Tribunal has reasonable ground to believe that –

(a) The person accused is absconding or has gone underground to avoid his arrest or bringing him to justice ; and,

(b) there is no possibility of his immediate arrest, in such case, it may, by order advertised at least in two Bengali newspapers, direct the accused to appear before the tribunal within the time-limit mentioned in the order which shall not exceed thirty days and, if the accused fail to appear before the tribunal within such period, the tribunal may try him in his absence.

(2) If any accused person after appearing before the tribunal or after making him appear so, he absconds after he is released by the tribunal on bail, in that event, the provision of Sub-Section(1) shall not be applicable in his case and in that event, the tribunal, noting reason, may complete his trial in his absence.

22. The Power of the Magistrate to Take Deposition anywhere. (1) If any Police Officer investigating any offence under this act or any other person investigating or any police officer on the spot, at the time of arresting an accused, feels that it is necessary in the interest of speedy justice of the offence, that any First class Magistrate should record deposition by such a person who knows about the occurrence or has witnessed it in his own eye, he may request in writing or otherwise any first class magistrate to record deposition of the said person .

(2) The Magistrate referred to in Sub-Section (1) shall record deposition of the said person on the spot and at any other appropriate place and send the deposition thus taken directly to the Investigation Officer or the person for its submission to the tribunal along with the investigation report.

(3) If trial of any person accused of any offence stated in Sub-Section (1) begins in any tribunal and it is observed that, the evidence of the person who made deposition under the Sub-Section (2) is necessary but he has since died or he is unable to give evidence or it is not possible to trace him out or any attempt to get him appear at the tribunal would involve such delay, cost or inconvenience that it may not be desirable in the circumstances, the tribunal may, in that event, accept the said deposition as evidence in the case;

Provided that the tribunal shall not be able to award punishment to the accused only on the basis of the deposition of the said witness.

23. The evidence of Chemical Examiner, Blood Examiner etc. --- (1) If any physician, chemical examiner, Assistant Chemical Examiner, Blood Examiner, Hand-writing Expert,

Fingerprint Expert or Arms Expert appointed by the government, during the proceedings concerning any offence under this act, after examining or analyzing certain matter dies and his evidence becomes necessary during the trial but it so happens that he dies or is unable to give evidence or it is impossible to trace him out or attempt to get him appear before the tribunal involves such delay, cost or inconvenience that, in the circumstances, would not be desirable, in that event his signed examination report may be accepted under this act as evidence during the trial.;

Provided that the tribunal shall not be able to award punishment to the accused only on the basis of the said report.

24. Appearance of witness before the court . (1) For trial of any offence under this act, the summons or warrant to the witness, to make it effective, have to be sent to the Officer-in-Charge of the Police Station under jurisdiction of which lay the latest the residential address (residence) of the concerned witness and the responsibility of getting the said witness appear before the court shall lie with the said Office-in-Charge.

(2) Notwithstanding provision of Sub-Section (1), a copy of the summons to the witness and to the concerned District Police Super or in appropriate jurisdiction, to the Police Commissioner may be sent by Registered Post with Acknowledgement Due.

(3) In case of willful negligence of the concerned Police Officer in making any summons or warrant under this section effective, the tribunal may instruct for taking action against the concerned Police Officer by his controlling authority, noting the negligence as inefficiency.

25. Application of Code of Criminal Procedure, etc. (1) Unless stated otherwise in this act, in case of lodging complaints of any offence, investigation, trial and disposal, the provisions of the Code of Criminal Procedure shall be applicable and the tribunal shall be deemed as a Sessions Court and may, in case of any offence under this act or for that matter, in trying any other offence apply all the powers of a Sessions Court.

(2) The Person conducting the case on behalf of the complainant shall be treated as Public Prosecutor.

26. Women and Children Anti-Repression Tribunal . -- (1) There shall be a Tribunal for the trial of offence under this act at each District Headquarters and, if necessary, the Government may constitute more than one tribunal in the said district; and such tribunal shall be called : Women and Children Anti-Repression Tribunal.

(2) the tribunal shall be constituted with one judge and the government shall appoint the judge of the said tribunal from amongst the District and Sessions Judges,

(3) The Government, if necessary, may appoint any District and Sessions Judge as judge of the Tribunal in addition to his own duty.

(4) Under this section District Judge and Sessions Judges shall also include Additional District Judge and Additional Sessions Judge respectively.

27. The Jurisdiction of the Tribunal . (1) No Tribunal shall take cognizance of any offence without a report in writing by a Police Officer not below the rank of a Sub-Inspector or a person empowered by the general or special order of the government for the purpose:

Provided, however, that if any tribunal is satisfied to the effect that, the complainant under this act requested and did not succeed in getting the complaint of any offence accepted by any Police Officer and person so empowered, the Tribunal, in that case, may take cognizance of the offence directly on the basis of the said complaint without such report.

(2) Report may be submitted to or Complaint lodged with, for taking cognizance of an offence, the very tribunal, if the said offence or part of it was committed in an area under its jurisdiction or under jurisdiction of which the area falls where the offender, and, in case of more than one, one of them was found, shall try the offence.

(3) If any other offence is involved with any offence under this act in such a way that it becomes pertinent in the interest of justice to try both the offences simultaneously or under the same case, the trial of the said other offence may be carried out with the trial of the offence under this act following the provisions of this act simultaneously or in the same tribunal.

28. Appeal. -- The party aggrieved at the order, judgement or penalty imposed by the Tribunal may appeal in the High Court Division within sixty days from the date of such order, judgement or punishment award.

29. Approval of Death Sentence. -- If a tribunal under this act gives death sentence, the files and records of the case concerned shall be sent immediately to the High Court Division under Section 374 of the Code of Criminal Procedure and the death sentence shall not be implemented without the approval of the High Court Division.

Section 30. Punishment for abetting or provoking an offence: If any person provokes anyone to commit any offence under this Act and, due to that provocation, the offence is committed or is attempted or if any person abets anyone to commit any offence under this Act, then that person shall be punishable with the punishment specified for committing or attempting to commit that offence.

31. Safe Custody. -- if the tribunal, while the trial of an offence is in progress, feels that safe custody is necessary for certain woman or child, it may order keeping the said woman or child in safe custody outside the prison and in such place as determined by the government for the purpose or in custody of other individual or organization the tribunal considers proper.

32. The Examination of woman and Child raped. (1) In case of examining the women and children raped, such examination shall have to be carried out sooner possible after the rape takes place.

(2) If the medical examination under Sub-Section(1) was not done as early as possible, The Tribunal, for negligence of duty of the physician concerned, instruct his appointing authority for taking action.

33. Power for making Rules. The Government may, by gazette notification, make rules to fulfil the objectives of this act.

34. The Repeal of Act 18 of 1995 and Custody. --(1) Women and Children (Special Provision) Act, 1995 (Act 18 of 1995), henceforward mentioned as such, is hereby repealed.

(2) Immediately before such repeal, the cases not yet disposed under the said act in the Tribunal concerned and the appeals against the order, judgement and punishment shall be conducted and disposed in the court concerned in such a manner as if the said act has not been repealed.

(3) All the cases , for offence committed under the said act, for which the report has been submitted or complaint lodged or chargesheet given or still under investigation under the Sub-Section (2) shall be treated as cases under trial in the said court.

(4) The special courts for countering repression of women and children constituted under the said act, shall be treated as Tribunal constituted under this act and in accordance with the Sub-Section (2) the said cases may be disposed in those tribunals.

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The Bangladesh
Passport Order, 1973

THE BANGLADESH PASSPORT ORDER, 1973 (1)

President's Order No. 9 of 1973.

Whereas it is expedient to provide for the issue of passports and travel documents to regulate, in the public interest, the departure from Bangladesh of citizens of Bangladesh and other persons and for matters incidental or ancillary thereto;

Now, Therefore, in pursuance of paragraph 3 of the Fourth Schedule to the Constitution of the People's Republic of Bangladesh, and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order:—

1. Title and extent—(1) This Order may be called the Bangladesh Passport Order, 1973.

(2) It extends to the whole of Bangladesh and applies to all citizens of Bangladesh.

2. Definitions—In this Order, unless there is anything repugnant in the subject or context,—

(a) "departure", with its grammatical variations and cognate expressions, means departure from Bangladesh by water, land or air;

(b) "Government" means the Government of the People's Republic of Bangladesh.

(c) "passport" means a passport issued or deemed to have been issued under this Order;

(d) "passport authority" means an officer or authority empowered under rules made under this Order to issue passports or travel documents;

(e) "prescribed" means prescribed by rules made under this Order;

(f) "travel document" means a travel document issued or deemed to have been issued under this Order.

1 The Order was published in the Bangladesh Gazette(Extra) on 8.2.1973: 408 C.B.

3. Passport travel document for departure from Bangladesh—No person shall depart or attempt to depart from Bangladesh unless he holds a valid passport or travel document.

COMMENTS—Passport is a document to its holder of every assistance and protection as a citizen of the state issuing the same in foreign countries (2). It is to afford him every assistance and protection of which he may stand in need (3). A passport is a political document so that the bearer may be allowed to pass freely and safely (4), but not a document to enter another state (5). It is a strong evidence of nationality of its holder (6).

4. Classes of passports and travel documents—(1) The classes of passports and travel documents, the conditions subject to which and the forms in which a passport or a travel document shall be issued or renewed and the period for which passport or a travel document shall be issued or renewed shall be as may be prescribed.

(2) A passport or a travel document issued under this Order shall at all time remain the property of the Government.

COMMENTS—Passport Rules do not give rise to its bearer to leave native country at pleasure (7). A passport issued can also be revoked under the Order (8). A citizen cannot be refused entry into Bangladesh for alleged breach of passport Act. He may be appropriately dealt with according to law in the country (9).

2. AIR 1957 M. Bharat 1(2) DB; AIR 1966 Bomb 66.

3. AIR 1954 Mad 240; ILR (1954) Mad 399.

4. AIR 1967 SC Del 1 (Over ruled; AIR 1967 SC 1836).

5. AIR 1967 SC 1836.

6. AIR 1967 All 565 AIR 1968 Mad 349.

7. S.A.A. Moududi-Vs- The State Bank of Pak., 22 DLR WP 57.

8. Asit Ranjan Sen-Vs- Bangladesh, 32 DLR 160

9. Zafaruddin Ahmed -Vs- Govt. (Towab's Case) 1, BCR 318=1 BLD 304.

5. Applications for passports, travel documents etc and orders thereon—(1) An application for the issue of a passport or travel document, for visiting such foreign country or countries as may be specified in the application, shall be made to the passport authority in such form, containing such particulars and accompanied by such fee, if any, as may be prescribed.

(2) On receipt of an application, the passport authority, after making such inquiry, if any, as it may consider necessary, shall, subject to the provisions of this Order, by order in writing issue passport or travel document, as the case may be, or refuse to issue passport or travel document or restrict the number of countries to be endorsed upon such passport or travel document.

6. Refusal of passports travel documents etc—Subject to the provisions of this Order, the passport authority—

(1) may refuse to issue a passport or travel document on any one or more of the following grounds—

(a) that the applicant is not a citizen of Bangladesh;

(b) that the applicant was convicted under the Bangladesh Collaborators (Special Tribunal) Order, 1972 (P.O.No. 8 of 1972);

(c) that the applicant has, at any time during the period of five years immediately preceding the date of his application, been convicted by a court in Bangladesh for any offence involving moral turpitude, and sentenced in respect thereof to imprisonment for not less than two years;

(d) that the applicant was convicted or is reasonably suspected of smuggling of currency, drugs, arms

trafficking in women and slaves, foreign currency, passports or of indulging in illegal dealings involving foreign exchange, trade or commerce;

(e) that the applicant is evading or likely to evade appearance in any pending proceedings against him in a criminal court in Bangladesh or that an order prohibiting the departure from Bangladesh of the applicant has been made by any such court;

(f) that the applicant was previously deported from abroad on account of his undesirable activity;

(g) that the applicant has been repatriated and has not reimbursed the expenditure incurred in connection with such repatriation;

(h) that the applicant is likely to become destitute and his repatriation would be a charge on public funds;

(i) that the application has been made for a minor, suspected of being taken out of Bangladesh against an order of the court or against the wishes of the legal guardian;

(j) that the applicant is suffering from such mental or physical deficiency which renders him incapable of taking care of himself unless accompanied by legal guardian or an authorised person; and

(2) shall refuse to issue a passport or travel document on any one or more of the following grounds—

(a) that the applicant, in the opinion of the Government, is likely to engage outside

Bangladesh in activities prejudicial to the sovereignty, integrity or security of Bangladesh;

(b) that the applicant, in the opinion of the Government, is reasonably suspected of evading or attempting to evade the duty to render any service which, under any law, he is required to render in the public interest;

(c) that the issue of a passport or travel document to the applicant, in the opinion of the Government, will not be in the public interest.

COMMENTS—It is only when the requirements of the section 6 are fulfilled that the passport authorities can refuse to issue a passport on the ground mentioned in the clause (10).

Consequently the restrictions imposed by the section 6 is "reasonable" restriction within the meaning of the provisions of the constitution (11).

7. Variation, impounding and revocation of passports and travel documents—(1) The passport authority may vary or cancel the endorsement on a passport or travel document or the conditions, other than the prescribed conditions, subject to which a passport or travel document is issued and may, for that purpose, require the holder of a passport or travel document, by notice in writing to deliver up such passport or travel document to it within such time as may be specified in such notice.

(2) The passport authority may impound or cause to be impounded or revoke a passport or travel document,—

(a) if the passport authority is satisfied that the holder of the passport or travel document is in wrongful possession thereof;

10. ILR (1970) 2 Delhi 378.

11. ILR (1972) 2 Delhi 233.

(b) if the passport or travel document was obtained by suppression of material facts;

(c) if the passport authority deems it necessary to do so in the interest of sovereignty, integrity or security of Bangladesh, or in the public interest;

(d) if the holder of the passport or travel document has, at any time after the issue of the passport or travel document, been convicted by a court in Bangladesh for any offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than two years or if the holder of the passport or travel document has been convicted under the Bangladesh Collaborators (Special Tribunal) Order, 1972 (P.O.No. 8 of 1972);

(e) if an order has been passed by any court in Bangladesh prohibiting the departure of the holder of the passport or travel document from Bangladesh and requiring the passport authority to impound or cause to be impounded or revoke such passport or travel document;

(f) if any of the conditions of the passport or travel document has been contravened;

(g) if the holder of the passport or travel document has failed to comply with a notice under clause (1) requiring him to deliver up the same.

(3) The passport authority may also, revoke a passport or travel document on the application of the holder thereof.

(4) Where the passport authority makes an order under clause (2) of Article 5 refusing to issue passport or travel document or restricting the number of countries to be endorsed upon such passport or travel document, or makes an order varying or cancelling the endorsements on, or varying the conditions, of, a

passport or travel document under clause (1), or makes an order impounding or revoking a passport or travel document under clause (2), of this Article, it shall record in writing a brief statement of the reasons for making such order and furnish to the person concerned on demand a copy of the same:

Provided that the passport authority may refuse in the interest of the sovereignty integrity or security of Bangladesh, or in the public interest to furnish such a copy.

COMMENTS—*The imposition of restrictions on the right to go abroad by impounding of passport cannot be held to be void as offending the provisions of the constitution or to the freedom of speech or expression, trade, profession or calling (12). But if the direct and motivable consequence of the order is to abridge or take away freedom of speech and expression, it would be violative of the fundamental rights guaranteed under the constitution (13).*

8. Revocation of passports—(1) A court convicting the holder of a passport or travel document of any offence under this Order or the rules made thereunder may also revoke the passport or travel document:

Provided that if the conviction is set aside on appeal or otherwise the revocation shall become void.

(2) An order of revocation under clause (1) may also be made by the Supreme Court when exercising its powers of appeal or revision.

9. Surrender of Passports—On the revocation of a passport or travel document under this Order the holder thereof shall, without delay, surrender the passport or travel document, if the same has not already been impounded, to the authority by whom it has been revoked or to such other authority as may be specified in the order of revocation.

12. AIR 1978 SC 597= (1978) 2 SCJ 312.

13. AIR 1978 SC 597= 1978 2 SCJ 312.

10. Appeals—Any person aggrieved by an order of the passport authority under clause (2) of Article 5 or clauses (1) and (2) of Article 7 may prefer an appeal against that order to such authority, hereinafter referred to as the appellate authority, and within such period and in such manner as may be prescribed:

Provided that no appeal shall lie against any order made by the Government.

11. Offences and penalties—Whoever—

- (a) contravenes the provisions of Article 3; or
- (b) knowingly furnishes any false information or suppresses any material fact with a view to obtaining a passport or travel document under this Order or without lawful authority alters or attempts to alter or causes to alter the entries made in a passport or travel document; or
- (c) fails to produce for inspection his passport or travel document (whether issued under this Order or not) when called upon to do so by the prescribed authority; or
- (d) knowingly uses a passport or travel document issued to another person; or
- (e) knowingly allows another person to use a passport or travel document issued to him, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to Taka two thousand, or with both.

(2) Whoever abets any offence punishable under clause (1) shall be liable to punishment provided in that clause for that offence.

(3) Whoever contravenes any condition of a passport or travel document or any provision of this Order or any rule made thereunder for which no punishment is provided elsewhere in this Order shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to Taka five hundred, or with both.

12. Power to arrest—(1) Any officer of customs empowered in this behalf by a general or special order of the Government or any officer of Bangladesh Bureau of Anti-corruption not below the rank of an Assistant Inspector or any officer of police ⁽¹⁴⁾ not below the rank of a Sub-Inspector may search any place and seize any passport or travel document from any person or arrest such person without warrant if a reasonable suspicion exists that he has committed any offence punishable under Article 11.

(2) The provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), relating to search and seizure and arrest shall, so far as may be, apply to search and seizure and arrest under this Article.

13. Indemnity—No suit, prosecution or other legal proceedings shall lie against the Government or any officer or authority for anything which is in good faith done or intended to be done under this Order.

14. Govt. may restrict travel to a country by notification—Upon the issue of a notification by the Government that a foreign country is—

- (a) a country which is committing external aggression against Bangladesh; or
- (b) a country assisting the country committing external aggression against Bangladesh; or
- (c) a country where armed hostilities are in progress; or
- (d) a country to which travel must be restricted in the public interest because such travel would seriously impair the conduct of foreign affairs of the Government, a passport or travel document for travel through or visiting such country shall cease to be valid for such travel or visit unless in any case a special endorsement in that behalf is made by the prescribed authority.

14. Substituted for "and any officer of police" by Ordinance No.LV of 1975 9.12.1975.

15. Government may issue passport to a person who is not a citizen—Notwithstanding anything contained in the foregoing provisions relating to issue of a passport or travel document, the Government may issue, or cause to be issued, a passport or travel document to a person who is not a citizen of Bangladesh if the Government is of the opinion that it is necessary so to do in the public interest.

16. Delegation of powers—The Government may by notification in the official Gazette, direct that any power or function which may be exercised or performed by it under this Order, in relation to such matters and subject to such conditions, if any, as it may specify in the notification, be exercised or performed—

- (a) by such officer of authority subordinate to the Government; or
- (b) in any foreign country in which there is no diplomatic mission of Bangladesh, by such foreign Consular Officer, as may be specified in the notification.

17. Power to make Rules—(1) The Government may by notification in the official Gazette, make rules for carrying out the purposes of this Order.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the appointment, jurisdiction, control and functions of passport authorities;
- (b) the form and particulars of application for the issue or renewal of a passport or travel document or for endorsement on a passport or travel document and where the application is for the renewal, the time which it shall be made;
- (c) the period for which passports and travel documents shall continue in force;
- (d) the form in which and the conditions subject to which the different classes of passports and

travel documents may be issued, renewed or varied;

- (e) the fees payable in respect of any application for the issue or renewal of a passport or travel document or for varying any endorsement or making a fresh endorsement on passport or a travel document and the fees payable in respect of any appeal under this Order;
- (f) the appointment of appellate authorities under Article 10, the jurisdiction of, and the procedure which may be followed by, such appellate authorities;
- (g) the services (including the issue of a duplicate passport or travel document lost, damaged or destroyed) which may be rendered in relation to a passport or travel document and the fees therefore;
- (h) any other matter which is to be or may be prescribed or in respect of which this Order makes no provision or makes insufficient provision and provision is, in the opinion of the Government, necessary for the proper implementation of the Order.

18. Saving as to certain passports and applications—(1) Every passport and every travel document issued by or under the authority of the Government before the commencement of this Order and in force immediately before such commencement shall be deemed to have been issued under this Order and shall, subject to the provisions of this Order, continue in force—

- (a) for the unexpired portion of the period for which such passport or travel document had been issued; or
- (b) for a period of five years from such commencement, whichever is less.

(Chapter XIV—Of Offences affecting the Public Health, Safety, Convenience Decency and Morals.)

to guard against any probable danger to human life from that substance,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand ¹[taka], or with both.

287. Whoever does, with any machinery, any act so rashly or negligently as to endanger human life or to be likely to cause hurt or injury to any other person,

Negligent conduct with respect to machinery.

or knowingly or negligently omits to take such order with any machinery in his possession or under his care as is sufficient to guard against any probable danger to human life from such machinery,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand ¹[taka], or with both.

288. Whoever, in pulling down or repairing any building, knowingly or negligently omits to take such order with that building as is sufficient to guard against any probable danger to human life from the fall of that building, or of any part thereof, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand ¹[taka], or with both.

Negligent conduct with respect to pulling down or repairing buildings.

289. Whoever knowingly or negligently omits to take such order with any animal in his possession as is sufficient to guard against any probable danger to human life, or any probable danger of grievous hurt from such animal, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand ¹[taka], or with both.

Negligent conduct with respect to animal.

290. Whoever commits a public nuisance in any case not otherwise punishable by this Code, shall be punished with fine which may extend to two hundred ¹[taka].

Punishment for public nuisance in cases not otherwise provided for

291. Whoever repeats or continues a public nuisance, having been enjoined by any public servant who has lawful authority to issue such injunction not to repeat or continue such nuisance, shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

Contingence of nuisance after injunction to discontinue.

²[292. Whoever—

(a) sells, lets to hire, distributes, publicly exhibits or in any manner puts into circulation, or for purposes of sale, hire, distribution, public exhibition or circulation, makes, produces or has in his possession any obscene book, pamphlet, paper, drawing, painting, representation or figure or any others obscene object whatsoever, or

Sale, etc., of obscene books, etc.

¹See foot-note 1 on page 76, ante.

²Substituted by the Obscene Publications Act, 1925 (Act VIII of 1925), s. 2, for the original section 292.

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Convenience, Decency and Morals.)

- (b) imports, exports or conveys any obscene object for any of the purposes aforesaid, or knowing or having reason to believe that such object will be sold, let to hire, distributed or publicly exhibited or in any manner put into circulation, or
- (c) takes part in or receives profits from any business in the course of which he knows or has reason to believe that any such obscene objects are, for any of the purposes aforesaid, made, produced, purchased, kept, imported, exported, conveyed, publicly exhibited or in any manner put into circulation, or
- (d) advertises or makes known by any means whatsoever that any person is engaged or is ready to engage in any act which is an offence under this section, or that any such obscene object can be procured from or through any person, or
- (e) offers or attempts to do any act which is an offence under this section,

shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Exception.—This section does not extend to any book, pamphlet, writing, drawing or painting kept or used *bona fide* for religious purposes or any representation sculptured, engraved, painted or otherwise represented on or in any temple, or on any car used for the conveyance of idols, or kept or used for any religious purpose.]

Sale, etc., of
obscene
objects to
young
person.

¹[293. Whoever sells, lets to hire, distributes, exhibits or circulates to any person under the age of twenty years any such obscene object as is referred to in the last preceding section, or offers or attempts so to do, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.]

Obscene acts
and songs.

²[294. Whoever, to the annoyance of others,
(a) does any obscene act in any public place, or
(b) sings, recites or utters any obscene songs, ballad or words, in or near any public place,

shall be punished with imprisonment of either description for a term which may extend to three months or with fine, or with both.]

Keeping
lottery
office.

³[294A. Whoever keeps any office or place for the purpose of drawing any lottery ⁴[not being a State lottery or a lottery authorized by the ¹[Government]] shall be punished with

¹Section 293 was substituted for the original section by the Obscene Publications Act, 1925 (Act VIII of 1925), s. 2.

²Section 294 was substituted for the original section by the Indian Criminal Law Amendment Act, 1895 (Act III of 1895), s. 3.

³Section 294A was inserted by the Indian Penal Code Amendment Act, 1870 (Act XXVII of 1870), s. 10.

⁴Substituted by A. O. 1937, for "not authorised by Government".

1860 : Act XLV]

Penal Code

(Chapter XVI.—Of Offences affecting the Human Body)

Of Kidnapping, Abduction Slavery and forced Labour.

359. Kidnapping is of two kinds ; kidnapping from ¹[Bangladesh], and kidnapping from lawful guardianship. Kidnapping.

360. Whoever conveys any person beyond the limits of ¹[Bangladesh] without the consent of that person, or of some person legally authorised to consent on behalf of that person, is said to kidnap that person from ¹[Bangladesh]. Kidnapping from Bangladesh.

361. Whoever takes or entices any minor under fourteen years of age if a male, or under sixteen years of age of a female, or any person of unsound mind, out of the keeping of the lawful guardian of such minor or person of unsound mind, without the consent of such guardian, is said to kidnap such minor or person from lawful guardianship. Kidnapping from lawful guardianship.

Explanation.—The words “lawful guardian” in this section include any person lawfully entrusted with the care or custody of such minor or other person.

Exception.—This section does not extend to the act of any person who in good faith believes himself to be the father of an illegitimate child, or who in good faith believes himself to be entitled to the lawful custody of such child, unless such act is committed for an immoral or unlawful purpose.

362. Whoever by force compels, or by any deceitful means induces, any person to go from any place, is said to abduct that person. Abduction.

363. Whoever kidnaps any person from ¹[Bangladesh] or from lawful guardianship, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. Punishments for kidnapping.

364. Whoever kidnaps or abducts any person in order that such person may be murdered or may be so disposed of as to be put in danger of being murdered, shall be punished with ²[imprisonment] for life or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine. Kidnapping or abduction in order to murder.

Illustrations

(a) A kidnaps Z from ¹[Bangladesh], intending or knowing it to be likely that Z may be sacrificed to an idol. A has committed the offence defined in this section.

(b) A forcibly carries or entices B away from his home in order that B may be murdered. A has committed the offence defined in this section.

¹The word “Bangladesh” was substituted for the word “Pakistan” by Act VIII of 1973, Second Schedule (with effect from 26th March, 1971).

²Subs. by Ordinance No. XLI of 1935, for “transportation”.

(Chapter XVI.—Of Offences affecting the Human Body)

Kidnapping
or abducting
a person
under the
age of ten.

¹[364A. Whoever kidnaps or abducts any person under the age of ten, in order that such person may be murdered or subjected to grievous hurt, or slavery, or to the last of any person or may be so disposed of as to be put in danger of being murdered or subjected to grievous hurt, or slavery, or to the last of any person shall be punished with death or with ²[imprisonment] for life or with rigorous imprisonment for a term which may extend to fourteen years and shall not be less than seven years.]

Kidnapping
or abducting
with intent
secretly and
wrongfully
to confine
person.

365. "Whoever kidnaps or abducts any person with intent to cause that person to be secretly and wrongfully confined, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Kidnapping,
abducting or
inducing
woman to
compel her
marriage,
etc.

366. Whoever kidnaps or abducts any woman with intent that she may be compelled, or knowing it to be likely that she will be compelled, to marry any person against her will, or in order that she may be forced or seduced to illicit intercourse, or knowing it to be likely that she will be forced or seduced to illicit intercourse, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine ; ³[and whoever, by means of criminal intimidation as defined in this Code or of abuse of authority or any other method of compulsion, induces any woman to go from any place with intent that she may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall also be punishable as aforesaid].

Precuration
of minor
girl.

⁴[366A. Whoever, by any means whatsoever, induces any minor girl under the age of eighteen years to go from any place or to do any act with intent that such girl may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall be punishable with imprisonment which may extend to ten years and shall also be liable to fine.]

Importation
of girl from
foreign
country.

⁴[366B. Whoever imports into ⁵[Bangladesh] from any country outside ⁵[Bangladesh] any girl under the age of twenty-one years with intent that she may be, or knowing it to be likely that she will be, forced or seduced to illicit intercourse with another person,

¹Section 364A was inserted by the Criminal Law Amendment Act, 1958 (Act XXXIV of 1958), s. 2.

²Subs. by Ordinance No. XLI of 1985, for "transportation".

³Inserted by the Indian Penal Code (Amendment) Act, 1923 (Act XX of 1923), s. 2.

⁴Sections 366A and 366B were inserted, *ibid.*

⁵The word "Bangladesh" was substituted for the word "Pakistan" by Act VIII of 1973, Second Sch. (with effect from 26-3-1971).

(Chapter XVI.—Of Offences affecting the Human Body)

1. * * * * *

shall be punishable with imprisonment which may extend to ten years and shall also be liable to fine.]

367. Whoever kidnaps or abducts any person in order that such person may be subjected, or may be so disposed of as to be put in danger of being subjected to grievous hurt, or slavery, or to the unnatural loss of any person, or knowing it to be likely that such person will be so subjected or disposed of, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Kidnapping or abducting in order to subject person to grievous hurt, slavery, etc.

368. Whoever, knowing that any person has been kidnapped or has been abducted, wrongfully conceals or confines such person, shall be punished in the same manner as if he had kidnapped or abducted such person with the same intention or knowledge, or for the same purpose as that with or for which he conceals or detains such person in confinement.

Wrongfully concealing or keeping in confinement, kidnapped or abducted person.

369. Whoever kidnaps or abducts any child under the age of ten years with the intention of taking dishonestly any moveable property from the person of such child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Kidnapping or abducting child under ten years with intent to steal from its persons.

370. Whoever imports, exports, removes, buys, sells or disposes of any person as a slave, or accepts, receives or detains against his will any person as a slave, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Buying or disposing or any person as a slave.

371. Whoever habitually imports, exports, removes, buys, sells, traffics or deals in slaves, shall be punished with ²[imprisonment] for life, or with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

Habitual dealing in slaves.

372. Whoever sells, lets to hire, or otherwise disposes of any ³[person under the age of eighteen years with intent that such person shall at any age be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, or knowing it to be likely that such person will at any age

Selling minor for purposes of prostitution, etc.

¹ Second paragraph of section 366 B was omitted by the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act VIII of 1973), Second Schedule (with effect from the 26th March, 1971).

² Subs. by Ordinance No. XLI of 1935, for "transportation".

³ The words within square brackets were substituted for the words "minor under the age of eighteen years with intent that such minor shall be employed or used for the purpose of prostitution or for any unlawful and immoral purpose, or knowing it to be likely that such minor will be" by section 2 of the Indian Criminal Law Amendment Act, 1924 (Act XVIII of 1924). The word "eighteen" was previously substituted for the word "sixteen" by s. 2 of the Indian Penal Code (Amendment) Act, 1924 (Act V of 1924).

(Chapter XVI.—Of Offences affecting the Human body)

be] employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

¹[*Explanation I.*—When a female under the age of eighteen years is sold, let for hire, or otherwise disposed of to a prostitute or to any person who keeps or manages a brothel, the person so disposing of such female shall, until the contrary is proved, be presumed to have disposed of her with the intent that she shall be used for the purpose of prostitution.

Explanation II.—For the purposes of this section “illicit intercourse” means sexual intercourse between person not united by marriage or by any union or tie which, though not amounting to a marriage, is recognised by the personal law or custom of the community to which they belong or, where they belong to different communities, of both such communities, as constituting between them a *quasi-marital* relation.]

Buying minor for purposes of prostitution, etc.

373. Whoever buys, hires or otherwise obtains possession of any ²[person under the age of eighteen years with intent that such person shall at any age be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, or knowing it to be likely that such person will at any age be] employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

³[*Explanation I.*—Any prostitute or any person keeping or managing a brothel who buy, hires or otherwise obtains possession of a female under the age of eighteen years shall, until the contrary is proved, be presumed to have obtained possession of such female with the intent that she shall be used for the purpose of prostitution.

Explanation II.—“Illicit intercourse” has the same meaning as in section 372.]

Unlawful compulsory labour.

⁴[374.—(1) Whoever unlawfully compels any person to labour against the will of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

⁵[(2) Whoever compels a prisoner of war or a protected person to serve in the armed forces of ⁶[Bangladesh] shall be punished with imprisonment of either description for a term which may extend to one year.

¹ Ins. by the Indian Criminal Law Amendment Act, 1924 (XVIII of 1924).

² see foot-note 2 on page 97, *supra*.

³ Ins. by Act XVIII of 1924, s. 4.

⁴ S. 374, renumbered as sub-section (1) of that section by the Pakistan Penal Code (Amdt.) Act, 1958 (XXXVI of 1958), s. 2.

⁵ Sub-section (2), was added, *ibid*.

⁶ Substituted by Act VIII of 1973, s. 3 and 2nd Sch. (with effect from 26.3.1971) for “Pakistan.”

Government Servants
(Discipline and Appeal)
Rules, 1984



GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF ESTABLISHMENT

Regulation Branch

Section R-V

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GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF ESTABLISHMENT

Regulation Branch

Section V

NOTIFICATION

Dhaka, the 19th July, 1984

No. S.R.O. 344-L/84.—In pursuance of the Proclamation of the 24th March 1982, and in exercise of all powers enabling him in that behalf the President, after consultation with the Bangladesh Public Service Commission, is pleased to make the following rules:—

GOVERNMENT SERVANTS (DISCIPLINE AND APPEAL)
RULES, 1984

PART I—GENERAL

1. Short title and application.—(1) These rules may be called the Government Servants (Discipline and Appeal) Rules, 1984.
- (2) They shall apply to all Government servants, except—
 - (a) persons to whom the Railway Establishment Code applies;
 - (b) subordinate officers of the Dhaka Metropolitan Police and Chittagong Metropolitan Police;
 - (c) members of any other police-force below the rank of Inspector of Police;
 - (d) subordinate officers, Riflemen and Signalmen of the Bangladesh Rifles;
 - (e) subordinate jail officers below the rank of Jailor of Bangladesh Jails;

Deputy Controller
Bangladesh Government Press
1984

(f) members of such services and holders of such posts as may be specified by the Government by notification in the Official Gazette;

(g) persons in respect of whose conditions of service, pay, allowances, pensions, discipline and conduct, or any one of them, special provisions have been made by any contract entered into or by any other legal instrument before the commencement of these rules or by any agreement entered into under sub-rule (4):

Provided that these rules shall apply to such persons in relation to any matter relating to their posts or service which is not covered by such special provisions.

(3) If any doubt arises as to whether these rules apply to any person the matter shall be referred to the appointing authority and the decision of that authority shall be final.

(4) Where, in the opinion of the Government, it is necessary to make any special provision relating to the conditions of service of any person subject to these rules, it shall be lawful for the Government to make such provision in an agreement entered into with such person.

2. Definitions.—In these rules unless there is anything repugnant in the subject or context,—

(a) “accused” means a Government servant against whom any action is taken under these rules;

(b) “authority” means the appointing authority or an officer designated by it, subject to such general or specific guideline as may be issued by the Government from time to time, to exercise the powers of the authority under these rules and shall include a superior officer, if any, of the appointing authority in the chain of command and a superior officer designated to exercise the powers of the authority;

(c) “appointing authority” means the authority mentioned as such in the recruitment rules of the Government servant concerned;

(d) “desertion” means quitting of service by a Government servant without permission or remaining absent from duty for a period of sixty days or more, or remaining absent from duty in continuation of absence from duty with permission, for a period of sixty days or more without further permission or leaving the country by a Government servant without permission and remaining abroad for thirty days or more or overstaying abroad, after leaving the country with permission, for sixty days or more without further permission;

(e) “Government servant” means a person in the service of the Republic and includes any such person on foreign service or whose services are temporarily placed at the disposal of a local authority or other authority or of a foreign Government or agency;

(f) “misconduct” means conduct prejudicial to good order or service discipline or contrary to any provision of the Government Servants (Conduct) Rules, 1979 or unbecoming of an officer or gentleman and includes submission of petitions containing wild and false accusation; and

(g) “penalty” means a penalty which may be imposed under these rules.

PART II—DISCIPLINE

3. Grounds for penalty.—Where a Government servant, in the opinion of the authority,—

(a) is inefficient, or has ceased to be efficient, whether by reason of—

(i) infirmity of mind or body, or

(ii) having, on two or more consecutive occasions, failed to pass in a departmental examination prescribed for the purpose of maintaining or raising general efficiency, or

(iii) having, without reasonable cause, failed to appear at any such examination as aforesaid, or otherwise, and is not likely to recover his efficiency; or

(b) is guilty of misconduct; or

(c) is guilty of desertion; or

(d) is corrupt, or may reasonably be considered corrupt because—

(i) he is, or any of his dependents or any other person through him or on his behalf is, in possession (for which he cannot reasonably account) of pecuniary resources or of property disproportionate to his known sources of income, or

(ii) he has assumed a style of living beyond his ostensible means, or

(iii) he has a persistent reputation of being corrupt; or

(e) is engaged, or is reasonably suspected of being engaged, in subversive activities, or who is reasonably suspected of being associated with others engaged in such subversive activities, and whose retention in service is, therefore, considered prejudicial to national security;

the authority may, subject to the provision of sub-rule (6) of rule 4, impose on him one or more penalties.

4. Penalties.—(1) There shall be two kinds of penalties which may be imposed under these rules, namely, minor penalties and major penalties.

(2) The following are the minor penalties—

(a) censure;

(b) withholding, for a specified period, of promotion or of increment otherwise than for unfitness for promotion or financial advancement in accordance with the rules or orders pertaining to the service or post;

(c) stoppage, for a specified period, at an efficiency bar in the time-scale, otherwise than for unfitness to cross such bar;

(d) recovery from pay of the whole or any part of any pecuniary loss caused to Government by negligence or breach of orders;

(e) reduction to a lower stage in the time-scale.

(3) The following are the major penalties—

(a) reduction to a lower post or time-scale;

- (b) compulsory retirement;
- (c) removal from service;
- (d) dismissal from service.

(4) Removal from service does not, but dismissal from service does, disqualify from future employment under the Government or under any body corporate established by or under an Act of Parliament.

(5) Penalties may be imposed as follows—

- (a) for inefficiency as laid down in sub-clause (i) of clause (a) of rule 3, any penalty except censure and dismissal from service;
- (b) for any other inefficiency, any major penalty except dismissal from service;
- (c) for misconduct, any penalty;
- (d) for desertion, any penalty;
- (e) for corruption or subversion, any major penalty except reduction to a lower post or time-scale.

(6) No authority subordinate to that by which a Government servant was appointed shall be competent to impose on him any major penalty. The appointing authority may impose on him one or more minor or major penalties and the officer designated by it may impose on him one or more of the minor penalties.

(7) In this rule, removal from service or dismissal from service does not include the discharge of a person—

- (a) appointed on probation, during the period of probation or in accordance with the probation and training rules applicable to him; or
- (b) appointed otherwise than under a contract to hold a temporary appointment, on the expiration of the period of appointment; or
- (c) engaged, under a contract, in accordance with the terms of his contract.

5. Inquiry procedure in cases of subversion.—(1) When a Government servant is to be proceeded against under clause (e) of rule 3, the authority—

- (a) may, by order in writing, require the Government servant concerned to proceed on such leave as may be admissible to him and from such date as may be specified in the order;
- (b) shall, by order in writing, inform him, within seven working days from the date of taking decision to proceed against him, of the action proposed to be taken in regard to him and the grounds of that action; and
- (c) shall give him reasonable opportunity of showing cause within the time to be specified in the order under clause (b) which shall not be less than seven working days and not more than ten working days, against that action before an Inquiry Committee to be constituted in pursuance of clause (c) of sub-rule (1),—

days, against that action before an Inquiry Committee to be constituted under sub-rule (2) to inquire into the charge:

Provided that no such opportunity shall be given where the President is satisfied that in the interest of the security of Bangladesh, it is not expedient to give such opportunity.

(2) Where an Inquiry Committee is to be constituted in pursuance of clause (c) of sub-rule (1),—

- (a) the appointing authority shall constitute, within three working days from the date of receipt of the reply to the show cause order issued under clause (b) of sub-rule (1), it of three officers of the rank not below that of the Government servant proceeded against;
- (b) the Committee shall start holding of the inquiry into the charge within seven working days from the date of receipt of order of inquiry and shall submit its findings to the authority within thirty working days from the date on which the Committee was constituted;
- (c) the appointing authority shall pass on the findings, within seven working days from the date of submission thereof, such orders as it deems fit.

Explanation.—For the purpose of clause (a), an officer means a Gazetted Officer.

6. Inquiry procedure in cases of inefficiency and misconduct calling for minor penalties.—(1) When a Government servant is to be proceeded against under clause (a) or (b) or (c) of rule 3, and the authority or such officer as may be appointed by it in this behalf or in cases where the President is the authority, the Secretary of the administrative Ministry to which the Government servant belongs, is of the opinion that the allegations, if established, would call for a minor penalty heavier than that of censure, the authority or the officer or the Secretary of the administrative Ministry, as the case may be, shall—

- (a) make the allegations against the accused known to him in writing and call upon him to explain his conduct within a period of seven working days from the date of receipt of the allegations by the accused and fix a date for hearing the accused in person; and
- (b) consider the explanation of the accused, if any, submitted within the specified time and, after giving him an opportunity of being heard in person, or if no explanation is submitted within the specified time, may award any of the minor penalties within such time so that the whole proceedings are completed within twenty-one working days from the date of the allegation is made known to the accused in writing:

Provided that the authority or the officer or the Secretary of the administrative Ministry, as the case may be, may, if it or he thinks fit, appoint an officer not below the rank of the accused, within seven working days from the date of hearing of the accused in person, to inquire into the allegation and submit his findings within twenty-one working days from the date of receipt of the order of inquiry;

- (c) if the Inquiry Officer cannot complete the inquiry within the specified time, he may request, in writing, the authority, the officer or the

Secretary, as the case may be, ordering such inquiry for extension of time and the ordering authority, officer or Secretary may, after considering such request, grant such extension of time not exceeding ten working days, as it or he may consider necessary;

(d) the authority or the officer or the Secretary of the administrative Ministry, as the case may be, shall take final decision in the case within seven working days from the date of submission of findings by the Inquiry Officer;

(e) the authority, the officer or the Secretary, as the case may be, ordering the inquiry shall pass final order on the case within ten working days from the date of receipt by it or him of the findings of the Inquiry Officer or may order such further inquiry as it or he may consider necessary and such further inquiry shall be completed within another ten working days;

(f) on receipt of the findings of further inquiry under clause (e) the authority, the officer or the Secretary, as the case may be, shall take a decision within fourteen working days from the date of receipt of the findings;

(g) in case of failure of the authority, the officer or the Secretary, as the case may be, to take final decision in a case within the specified time the accused shall automatically be discharged of the charges brought against him and in such event the persons responsible for such failure shall be proceeded against under these rules.

(2) In an inquiry under this rule the accused may, if he so desires, adduce oral evidence in his defence which shall be subject to such cross-examination as may be necessary. The accused may also consult relevant files, but he will not have access to the note portion of the files.

(3) When a Government servant is to be proceeded against under clause (a) or (b) or (c) of rule 3, and the authority or such officer as may be appointed by it in this behalf or, in a case where the President is the authority, the Secretary of the administrative Ministry to which the Government servant belongs, is of the opinion that the allegations, if established, would call for the penalty of censure, the authority or the officer or the Secretary of the administrative Ministry, as the case may be, may impose upon the accused the said penalty after hearing him in person and recording the reasons therefor and obtaining the signature of the accused on the record of the proceedings. If, however, the accused does not appear or refuses to appear or demands that the allegation be communicated to him in writing, the procedure as laid down in sub-rule (1) shall be followed and in that event if the allegation is established, the penalty higher than that of censure shall be imposed.

Explanation.—For the purpose of this rule and rule 10, the expression “not below in rank” shall mean—

(a) an officer either equal or higher in rank to that of the accused if the officer appointed to inquire into the allegations against the accused belongs to the same service; or

(b) an officer whose scale of pay is equal to or higher than that of the accused if they belong to different services or hold different posts.

Inquiry procedure in cases of inefficiency, misconduct, desertion and corruption calling for major penalties.—(1) When a Government servant is to be proceeded against under clause (a) or (b) or (c) or (d) of rule 3, and the authority is of the opinion that the allegations, if established, would call for a major penalty, the authority shall—

(a) frame a charge and specify therein the penalty proposed to be imposed, and communicate it to the Government servant together with a statement of allegations on which it is based and of any other circumstances which the authority proposes to take into consideration when passing orders on the case;

(b) require the accused to submit, within ten working days from the day the charge has been communicated to him a written statement of his defence and to show cause at the same time why the penalty proposed to be imposed on him should not be imposed and also state whether he desires to be heard in person. In case the accused is unable to submit his statement of defence within the specified time, and he prays for extension of time, the authority may allow him extension of time up to ten working days for submission of the statement, provided the prayer for extension of time is submitted before the expiry of the time initially allowed; and

(c) in case the accused does not submit his statement of defence as required under clause (b) within the specified or extended time, the authority shall record its decision on the allegation after taking into consideration the materials available with it and communicate the same to the accused within ten working days of the expiry of the specified or extended time. If it is decided to impose any major penalty, the authority shall ask the accused to show cause within seven working days why the proposed penalty shall not be imposed on him.

(2) If the accused so desires, or if the authority so directs, an Inquiry Officer or a Board of Inquiry, to be appointed under rule 10, shall hold an inquiry at which oral evidence shall be heard as to such of the allegations as are not admitted and documentary evidence relevant or material in regard to the charge shall be considered. The accused shall be entitled to cross-examine the witnesses against him, to give evidence in person and to have such witness called for the defence as he may wish. The person presenting the case in support of the charge shall be entitled to cross-examine the accused and the witnesses examined in his defence:

Provided that the Inquiry Officer or the Board of Inquiry may, for reasons to be recorded in writing, refuse to call for a particular witness or to summon or admit a particular evidence.

(3) In an inquiry under this rule the accused may, if he so desires, adduce oral evidence in his defence which shall be subject to such cross-examination as may be necessary. The accused may also consult relevant files, but he will not have access to the note portion of the files.

(4) The authority may nominate any person to present the case in support of the charge before the Inquiry Officer or the Board of Inquiry.

(5) The proceedings of an inquiry under this rule shall contain sufficient record of the evidence and, where an Inquiry Officer or a Board of Inquiry is appointed, also the report of the findings of such Officer or Board and the grounds therefor.

(6) The Inquiry Officer or Board of Inquiry, as the case may be, shall start holding of the inquiry within seven working days from the date of receipt of the order of inquiry and submit his or its findings to the authority within thirty working days from the date on which the Inquiry Officer or Board of Inquiry was appointed:

Provided that if the Inquiry Officer or Board of Inquiry cannot conclude his or its findings within the specified time, he or it may request, in writing stating the reasons therefor, the authority ordering the inquiry for extension of time; and the ordering authority may, after considering such request, grant such extension of time, not exceeding fifteen working days, as it may consider necessary.

(7) On receipt of the report of the findings of the Inquiry Officer or the Board of Inquiry, the authority shall consider the report and record its decision on the charge and communicate the same to the accused within ten working days from the date of receipt of the report.

(8) If the authority decides under sub-rule (7) to impose any major penalty, it shall ask the accused to show cause within seven working days why the proposed penalty shall not be imposed on him.

(9) If it is decided under sub-rule (1)(c) or sub-rule (7) to impose any major penalty on the accused, and if it is a case in which consultation with the Bangladesh Public Service Commission is necessary, the authority shall forward the proceedings along with the decision to impose the penalty to the Bangladesh Public Service Commission requesting it to give its advice within ten working days of the receipt of the letter forwarding the said proceedings. If no advice is received within the specified time, the authority shall presume that the Commission agrees with the decision to award the penalty.

(10) The authority shall take final decision on the proceedings after considering the cause shown, if any, by the accused as required under sub-rule (1)(c) or under sub-rule (8) and taking into account the advice, if any, of the Bangladesh Public Service Commission received under sub-rule (9) and communicate the same to the accused within ten working days from the expiry of the date specified under the said sub-rules for the receipt of the cause to be shown against the proposed penalty.

(11) In case of failure of the authority to take decision within one hundred and twenty working days from the date of communicating the charges under these rules or within one hundred and fifty working days from the date the Government servant is placed under suspension, whichever is earlier, the accused shall stand discharged of the charges brought against him and in such event the persons responsible for such failure shall be proceeded against under these rules.

Savings.—Nothing in rule 6 or 7 shall apply to a case—

(a) where the accused is dismissed or removed from service or reduced in rank on the ground of conduct which has led to his conviction of a criminal charge; or

(b) where the authority competent to dismiss or remove the accused from service or to reduce him in rank is satisfied that, for reasons to be recorded in writing by that authority, it is not reasonably practicable to give the accused an opportunity of showing cause.

9. Power to order medical examination as to mental or bodily infirmity.—(1) Where it is proposed to proceed against a Government servant on the ground of inefficiency by reason of infirmity of mind or body the authority may, at any stage of the proceedings, require the Government servant to undergo a medical examination by a Medical Board or a Civil Surgeon, as the authority may direct, and the report of the Medical Board or the Civil Surgeon shall form part of the proceedings.

(2) If the Government servant refuses to undergo such examination, his refusal may, subject to the consideration of any ground he may give in support of it, be taken into consideration against him as showing that he had reason to believe that the result of examination would prove unfavourable to him.

10. Appointment and procedure of Inquiry Officer.—(1) Where a Government servant is proceeded against under clause (a) or (b) or (c) or (d) of rule 3, and the authority has decided that the case calls for a major penalty, the authority shall appoint an officer, not below in rank of that of the person proceeded against, to be Inquiry Officer and to conduct the proceedings.

(2) The Inquiry Officer shall hear the case from day-to-day, and no adjournment shall be given except for reasons to be recorded in writing. Every adjournment, with reasons therefor, shall be reported forthwith to the authority. No adjournment shall be given for more than a week.

(3) If the Inquiry Officer is satisfied that the Government servant proceeded against is hampering or attempting to hamper the progress of the inquiry, he shall administer a warning, and if thereafter he is satisfied that the accused is acting in disregard of the warning, he shall record a finding to that effect, and proceed to complete the inquiry in such manner as he thinks best fitted to do substantial justice.

(4) The Inquiry Officer shall, within five days of the conclusion of the proceedings, submit his findings, and the grounds therefor to the authority.

(5) The Inquiry Officer shall give his findings of only guilty or not guilty on each charge and he shall not give any recommendation regarding punishment or otherwise.

(6) The authority may, in any case it deems fit, instead of appointing an Inquiry Officer under sub-rule (1), appoint a Board of Inquiry consisting of two or more persons, and, where a Board of Inquiry is so appointed, references in this rule to an Inquiry Officer shall be construed as references to the Board.

17. **Re-instatement.**—(1) If a Government servant proceeding on leave in pursuance of an order under clause (a) of sub-rule (1) of rule 5, is not dismissed, removed, reduced in rank, or compulsorily retired, he shall be re-instated in service or, as the case may be, restored to his rank or given an equivalent rank, and the period of such leave shall be treated as duty on full pay.

(2) Re-instatement after suspension shall be governed by the Service Rules

14. Procedure of inquiry against officers lent to local authorities, etc.—(1) Where the services of a Government servant to whom these rules apply are lent to a local or other authority, in this rule referred to as the borrowing authority, the borrowing authority shall have the power of the authority for the purpose of placing him under suspension and of initiating proceedings against him under these rules.

Provided that the borrowing authority shall forthwith inform the authority which had lent his service, hereinafter in this rule referred to as the lending authority, of the circumstances leading to the order of his suspension or the commencement of the proceedings, as the case may be.

(2) In the light of the findings in the proceedings taken against the Government servant in terms of sub-rule (1), if the borrowing authority is of opinion that any penalty should be imposed on him it shall transmit to the lending authority the record of the proceedings and thereupon the lending authority may, if it is the authority, pass such orders thereon as it deems necessary or if it is not the authority, submit the case to the authority which shall pass such orders on the case as it deems necessary.

(3) The authority may make an order under this rule on the record of the inquiry transmitted by the borrowing authority or after holding such further inquiry as it may deem necessary and, in passing such order, shall comply with the provisions of sub-rule (7) of rule 7.

15. Orders made by President not appealable.—Notwithstanding anything contained in this Part, no appeal shall lie against any order made by the President.

16. Appeals against orders.—(1) A Government servant may appeal against any order—

(a) imposing upon him any penalty;

(b) terminating his services in accordance with the terms of his contract, if he has been engaged on contract and has rendered continuous services for a period exceeding five years at the time "when his services are terminated;

(c) altering, varying or denying to him, disadvantage his pay, allowances, pension or other conditions of service as regulated by rules or contract of service; or

(d) interpreting to his disadvantage the provisions of any rules or of service whereby his pay, allowances, pensions or other conditions of service are regulated;

to the authority specified in this behalf by a general or special order made by the Government or, where no such authority is specified, to the authority to which the authority making the order is immediately subordinate or, where the order is made by an authority subordinate to the appointing authority, to the appointing authority.

17. Limitation for appeals.—No appeal under this part shall be entertained unless it is submitted within three months of the date on which the appellant was informed of the order appealed against:

Provided that the appellate authority may entertain an appeal within three months after the expiry of the above period, if it is satisfied that the appellant had sufficient cause for not submitting the appeal in time.

18. Form and manner of submission of appeals.—(1) Every person submitting an appeal shall do so separately and in his own name.

(2) The appeal shall be addressed to the authority to whom it lies, shall contain all material statements and arguments on which the appellant relies, shall not contain any disrespectful or improper language and shall be complete in itself.

(3) Every appeal shall be submitted through the head of the office in which the appellant serves or, if he is not in service, the head of the office in which he served last and through the authority against whose order the appeal is preferred:

Provided that an advance copy of the appeal may be submitted direct to the appellate authority.

19. Withholding of appeals.—(1) The authority which made the order appealed against may withhold the appeal, if—

- (a) it is an appeal against an order for which no appeal lies; or
- (b) it is not submitted within the period specified in rule 17 and no cause is shown for the delay; or
- (c) it does not comply with any of the provisions of rule 18; or
- (d) it is a repetition of a previous appeal and is made to the same appellate authority by which such appeal has been decided and no new facts or circumstances are adduced which afford grounds for reconsideration of the case:

Provided that in every case in which an appeal is withheld, the appellant shall be informed of the fact and the reasons for it within seven days from the receipt of the appeal:

Provided further that an appeal withheld on the ground only of failure to comply with the provisions of rule 18 may be resubmitted at any time, within one month of the date on which the appellant was informed of the withholding of the appeal, and, if resubmitted after compliance with the said provisions, shall not be withheld.

(2) No appeal shall lie against the withholding of an appeal by a competent authority.

(3) A list of the appeals withheld by any authority under this rule, together with the reasons for withholding them, shall be forwarded quarterly by that authority to the appellate authority.

20. Forwarding of appeals.—(1) The authority which made the order appealed against shall forward to the appellate authority every appeal which is not withheld under rule 19, together with its comments thereon and the relevant records within three working days from the date of receipt of the appeal.

(2) The appellate authority may call for any appeal withheld under rule 19, and thereupon such appeal shall be forwarded to that authority together with the comments of the authority withholding the appeal and the relevant records.

21. Disposal of appeals.—(1) In the case of an appeal against an order imposing any penalty, the appellate authority shall consider—

- (a) whether the procedure prescribed in these rules has been complied with, and, if not, whether such non-compliance has resulted in failure of justice;
- (b) whether the findings on the charge are justified; and
- (c) whether the penalty imposed is excessive, adequate or inadequate; and pass such orders as it deems fit.

(2) In the case of an appeal against any other order, the appellate authority shall consider all the facts and circumstances of the case and pass such orders as it deems just and equitable within thirty working days from the date of receipt of the appeal.

(3) The authority which passed the order appealed against shall give effect to the orders passed by the appellate authority within thirty working days from the date of receipt of the order of the appellate authority.

PART IV—REVIEW AND REVISION

22. Review.—(1) Where an order by which a Government servant is aggrieved was made by the President, the Government servant may apply to the President for review of the order.

(2) No application for review shall be entertained unless it is submitted within three months of the date on which the applicant was informed of the order by which he is aggrieved:

Provided that the President may entertain an application for review within three months after the expiry of the above period if he is satisfied that the applicant had sufficient cause for not submitting the application in time.

(3) Every person submitting an application for review shall do so separately and in his own name.

(4) Every application for review shall be submitted to the President through the head of the Office in which the applicant serves or, if he is not in service, the head of the office in which he served last.

(5) The President may pass such orders on an application for review as he deems fit.

23. **Revision.**—The President may, on his own motion or otherwise, after calling for the records of the case, revise any order passed in appeal or any order which is appealable but against which no appeal has been preferred under these rules within one year of the date on which the order was passed.

PART V—MISCELLANEOUS

24. **Court proceedings.**—(1) If there be any prosecution or legal proceeding against a Government servant pending in any court on the same issue, there shall be no bar on the disposal of the departmental proceedings against him; but if the authority decides to impose any penalty on such Government servant in the departmental proceedings, imposition of such penalty shall be stayed until disposal of the prosecution or legal proceeding.

(2) A Government servant convicted by a court of any offence, including any offence involving moral turpitude, shall not be dismissed, discharged or removed from service automatically. The Government shall consider the circumstances which led to the conviction and decide whether the Government servant so convicted shall be retained in service or not.

Provided that for arriving at such decision no further proceeding will be drawn up against such convicted person:

Provided further that no convicted person shall be re-instated or retained in service except with the approval of the President.

25. **Rules not to deprive any person of any right or privilege under any other law.**—Nothing in these rules shall deprive any person of any right or privilege to which he is entitled—

- (a) under any law; or
- (b) under the terms of any contract or agreement subsisting immediately before the date of the commencement of these rules between such person and the Government.

26. **Repeal and savings.**—(1) The Government Servants (Discipline and Appeal) Rules, 1976, are hereby repealed.

(2) Such repeal shall not affect the previous operation of the said rules or anything done or any action taken thereunder, and any proceedings under the said rules pending at the commencement of these rules shall be continued, and disposed of, as far as may be, in accordance with the provisions of these rules.

(3) Any officer or authority designated by the President to exercise the powers of the authority under the rules mentioned in sub-rule (1), or any officer or authority deemed to be an authority so designated by the President under these rules shall be deemed to be an authority designated under these rules.

(4) Any authority which was an appellate authority in respect of any Government servant under the rules mentioned in sub-rule (1) shall be deemed to be an appellate authority in respect of such Government servant specified by the Government under these rules.

By order of the President
D. S. YUSUF HYDER
Additional Secretary.

Convention on the Rights of the Child

Adopted and opened for signature, ratification and accession by
General Assembly resolution 44/25
of 20 November 1989

entry into force 2 September 1990, in accordance with article 49

Preamble

The States Parties to the present Convention,
Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,
Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,
Recognizing that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,
Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance,
Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,
Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,
Considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity,
Bearing in mind that the need to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924 and in the Declaration of the Rights of the Child adopted by the General Assembly on 20 November 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in article 10) and in the statutes and relevant instruments of specialized agencies and international organizations concerned with the welfare of children,
Bearing in mind that, as indicated in the Declaration of the Rights of the Child, "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth",
Recalling the provisions of the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally; the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) ; and the Declaration on the Protection of Women and Children in Emergency and Armed Conflict,
Recognizing that, in all countries in the world, there are children living in exceptionally difficult conditions, and that such children need special consideration,
Taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child,
Recognizing the importance of international co-operation for improving the living conditions of children in every country, in particular in the developing countries,
Have agreed as follows:

PART I

Article 1

For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.

Article 2

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.
2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Article 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.
2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.
3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

Article 4

States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.

Article 5

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

Article 6

1. States Parties recognize that every child has the inherent right to life.
2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

Article 7

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.
2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

Article 8

1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.
2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.

Article 9

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of

the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.

2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.

3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests. 4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

Article 10

1. In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.

2. A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional

A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 1, States Parties shall respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (*ordre public*), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

Article 11

1. States Parties shall take measures to combat the illicit transfer and non-return of children abroad.

2. To this end, States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.

Article 12

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Article 13

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.

2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others; or

(b) For the protection of national security or of public order (*ordre public*), or of public health or morals.

Article 14

1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.

2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

Article 15

1. States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.
2. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 16

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.
2. The child has the right to the protection of the law against such interference or attacks.

Article 17

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health. To this end, States Parties shall:

- (a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29;
- (b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;
- (c) Encourage the production and dissemination of children's books;
- (d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;
- (e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.

Article 18

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.
2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.
3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.

Article 19

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.
2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Article 20

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.

2. States Parties shall in accordance with their national laws ensure alternative care for such a child.
3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

Article 21

States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

- (a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;
- (b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;
- (c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;
- (d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;
- (e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.

Article 22

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.
2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

Article 23

1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.
2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.
3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development.
4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

Article 24

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:

- (a) To diminish infant and child mortality;
 - (b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;
 - (c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;
 - (d) To ensure appropriate pre-natal and post-natal health care for mothers;
 - (e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;
 - (f) To develop preventive health care, guidance for parents and family planning education and services.
3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.
4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

Article 25

States Parties recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

Article 26

1. States Parties shall recognize for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.
2. The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child.

Article 27

1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.
2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.
3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.
4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements.

Article 28

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:
- (a) Make primary education compulsory and available free to all;
 - (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
 - (c) Make higher education accessible to all on the basis of capacity by every appropriate means;
 - (d) Make educational and vocational information and guidance available and accessible to all children;

- (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.
- 2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.
- 3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.



States Article 29 *General comment on its implementation*

- 1. States Parties agree that the education of the child shall be directed to:
 - (a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;
 - (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;
 - (c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;
 - (d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;
 - (e) The development of respect for the natural environment.
- 2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 30

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

Article 31

- 1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.
- 2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

Article 32

- 1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.
- 2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:
 - (a) Provide for a minimum age or minimum ages for admission to employment;
 - (b) Provide for appropriate regulation of the hours and conditions of employment;
 - (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

Article 33

States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.

Article 34

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;
- (b) The exploitative use of children in prostitution or other unlawful sexual practices;
- (c) The exploitative use of children in pornographic performances and materials.

Article 35

States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

Article 36

States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

Article 37

States Parties shall ensure that:

- (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;
- (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;
- (c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;
- (d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

Article 38

1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.
2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.
3. States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest.
4. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts,

Article 38

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3. States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest.
4. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.

Article 39

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

Article 40

1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:

(a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;

(b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:

(i) To be presumed innocent until proven guilty according to law;

(ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;

(iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;

(iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;

(v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;

(vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used;

(vii) To have his or her privacy fully respected at all stages of the proceedings. 3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged-as, accused of, or recognized as having infringed the penal law, and, in particular:

(a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;

(b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.

4. A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

Article 41

Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of the child and which may be contained in:

(a) The law of a State party; or

(b) International law in force for that State.

PART II

Article 42

States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.

Article 43

1. For the purpose of examining the progress made by States Parties in achieving the realization of the obligations undertaken in the present Convention, there shall be established a Committee on the Rights of the Child, which shall carry out the functions hereinafter provided.
2. The Committee shall consist of ten experts of high moral standing and recognized competence in the field covered by this Convention. The members of the Committee shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution, as well as to the principal legal systems. (amendment)
3. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.
4. The initial election to the Committee shall be held no later than six months after the date of the entry into force of the present Convention and thereafter every second year. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to States Parties inviting them to submit their nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating States Parties which have nominated them, and shall submit it to the States Parties to the present Convention.
5. The elections shall be held at meetings of States Parties convened by the Secretary-General at United Nations Headquarters. At those meetings, for which two thirds of States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.
6. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. The term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these five members shall be chosen by lot by the Chairman of the meeting.
7. If a member of the Committee dies or resigns or declares that for any other cause he or she can no longer perform the duties of the Committee, the State Party which nominated the member shall appoint another expert from among its nationals to serve for the remainder of the term, subject to the approval of the Committee.
8. The Committee shall establish its own rules of procedure.
9. The Committee shall elect its officers for a period of two years.
10. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee. The Committee shall normally meet annually. The duration of the meetings of the Committee shall be determined, and reviewed, if necessary, by a meeting of the States Parties to the present Convention, subject to the approval of the General Assembly.
11. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.
12. With the approval of the General Assembly, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide.

Article 44

1. States Parties undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights:
 - (a) Within two years of the entry into force of the Convention for the State Party concerned;
 - (b) Thereafter every five years.
2. Reports made under the present article shall indicate factors and difficulties, if any, affecting the degree of fulfilment of the obligations under the present Convention. Reports shall also contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned.
3. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports submitted in accordance with paragraph 1 (b) of the present article, repeat basic information previously provided.
4. The Committee may request from States Parties further information relevant to the implementation of the Convention.
5. The Committee shall submit to the General Assembly, through the Economic and Social Council, every two years, reports on its activities.
6. States Parties shall make their reports widely available to the public in their own countries.

Article 45

In order to foster the effective implementation of the Convention and to encourage international co-operation in the field covered by the Convention:

- (a) The specialized agencies, the United Nations Children's Fund, and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies, the United Nations Children's Fund and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite the specialized agencies, the United Nations Children's Fund, and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;
- (b) The Committee shall transmit, as it may consider appropriate, to the specialized agencies, the United Nations Children's Fund and other competent bodies, any reports from States Parties that contain a request, or indicate a need, for technical advice or assistance, along with the Committee's observations and suggestions, if any, on these requests or indications;
- (c) The Committee may recommend to the General Assembly to request the Secretary-General to undertake on its behalf studies on specific issues relating to the rights of the child;
- (d) The Committee may make suggestions and general recommendations based on information received pursuant to articles 44 and 45 of the present Convention. Such suggestions and general recommendations shall be transmitted to any State Party concerned and reported to the General Assembly, together with comments, if any, from States Parties.

PART III

Article 46

The present Convention shall be open for signature by all States.

Article 47

The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 48

The present Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 49

1. The present Convention shall enter into force on the thirtieth day following the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying or acceding to the Convention after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification or accession.

Article 50

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties, with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly for approval.
2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of States Parties.
3. When an amendment enters into force, it shall be binding on those States Parties which have accepted it, other States Parties still being bound by the provisions of the present Convention and any earlier amendments which they have accepted.

Article 51

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.

2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

3. Reservations may be withdrawn at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall then inform all States. Such notification shall take effect on the date on which it is received by the Secretary-General

Article 52

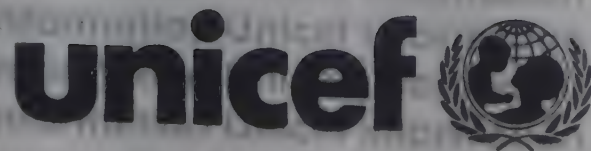
A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.

Article 53

The Secretary-General of the United Nations is designated as the depositary of the present Convention.

Article 54

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations. IN WITNESS THEREOF the undersigned plenipotentiaries, being duly authorized thereto by their respective governments, have signed the present Convention.



UNICEF Hails Entry Into Force Of Optional Protocol On the Sale of Children, Child Prostitution and Child Pornography

NEW YORK, 23 October 2001 - A major step forward in the protection of children from exploitation, trafficking and sexual abuse has just been achieved, UNICEF stated today, welcoming the imminent entry into force of the Optional Protocol on the sale of children, child prostitution and child pornography. With the submission of Romania's tenth ratification last Thursday, the Protocol to the Convention on the Rights of the Child will become a legally binding instrument on the 18th January 2002. This three month interval is in accordance with the procedures outlined in the Protocol.

UNICEF estimates that one million children, mainly girls, are forced into the multi-billion dollar commercial sex trade every year. These children are often lured with promises of an education or a "good job". Girls appear to be forced into the sex industry at increasingly younger ages partly as a result of the mistaken belief that younger girls are unlikely to be infected with HIV/AIDS virus.

It is often very difficult for these children to seek help, not just because of their young age, but because they have no birth certificates or official documents and are therefore "invisible"

Child prostitution, child pornography and the sale of children occur within countries and reaches across country borders, with perpetrators and victims in both industrialized and developing countries. "It is therefore essential that governments urgently commit to implement the standards of the Optional Protocol and work together to ensure that no child is again forced into this cruel trade" said UNICEF Executive Director, Ms. Bellamy.

Once ratified and translated into national law, the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography places responsibility squarely with the adults involved in these activities, criminalizing these violations of children's rights. It also calls for measures towards increased public awareness and international co-operation in efforts to combat them.

Ms. Bellamy congratulated the first ten countries ratifying this treaty (**Andorra, Bangladesh, Cuba, Iceland, Kazakhstan, Panama, Sierra Leone, Norway, Morocco and Romania**) and called upon all states to swiftly move to making this same commitment to their children.

"At this time, a total of 69 countries have signed the Protocol and still need to proceed to ratification. It would be a marvelous testimony of our commitment to children if this Protocol were to enjoy overwhelming support before the Second World Congress against Commercial Sexual Exploitation of Children to be held in Yokohama, Japan in December this year," Bellamy said.

"An end to the exploitation of children can only be achieved if all States and international actors commit to fight together," Bellamy added. *"UNICEF strongly encourages the eradication of this violent trade through prevention programmes and concerted action against perpetrators. This must remain a pressing priority on the international agenda".*

**Optional Protocol to the Convention on the Rights
of the Child on the sale of children, child
prostitution and child pornography
Adopted and opened for signature, ratification and
accession by General Assembly resolution
A/RES/54/263 of 25 May 2000
not yet in force (see article 14)**

The States Parties to the present Protocol,

Considering that, in order further to achieve the purposes of the Convention on the Rights of the Child and the implementation of its provisions, especially articles 1, 11, 21, 32, 33, 34, 35 and 36, it would be appropriate to extend the measures that States Parties should undertake in order to guarantee the protection of the child from the sale of children, child prostitution and child pornography,

Considering also that the Convention on the Rights of the Child recognizes the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development,

Gravely concerned at the significant and increasing international traffic in children for the purpose of the sale of children, child prostitution and child pornography,

Deeply concerned at the widespread and continuing practice of sex tourism, to which children are especially vulnerable, as it directly promotes the sale of children, child prostitution and child pornography,

Recognizing that a number of particularly vulnerable groups, including girl children, are at greater risk of sexual exploitation and that girl children are disproportionately represented among the sexually exploited,

Concerned about the growing availability of child pornography on the Internet and other evolving technologies, and recalling the International Conference on Combating Child Pornography on the Internet, held in Vienna in 1999, in particular its conclusion calling for the worldwide criminalization of the production, distribution, exportation, transmission, importation, intentional possession and advertising of child pornography, and stressing the importance of closer cooperation and partnership between Governments and the Internet industry,

Believing that the elimination of the sale of children, child prostitution and child pornography will be facilitated by adopting a holistic approach, addressing the contributing factors, including underdevelopment, poverty, economic disparities, inequitable socio-economic structure, dysfunctioning families, lack of education, urban-rural migration, gender discrimination, irresponsible adult sexual behaviour, harmful traditional practices, armed conflicts and trafficking in children,

Believing also that efforts to raise public awareness are needed to reduce consumer demand for the sale of children, child prostitution and child pornography, and believing further in the importance of strengthening global partnership among all actors and of improving law enforcement at the national level,

Noting the provisions of international legal instruments relevant to the protection of children, including the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, the Hague Convention on the Civil Aspects of International Child Abduction, the Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of Children, and International Labour Organization Convention

No. 182 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour,
Encouraged by the overwhelming support for the Convention on the Rights of the Child, demonstrating the widespread commitment that exists for the promotion and protection of the rights of the child,

Recognizing the importance of the implementation of the provisions of the Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography and the Declaration and Agenda for Action adopted at the World Congress against Commercial Sexual Exploitation of Children, held in Stockholm from 27 to 31 August 1996, and the other relevant decisions and recommendations of pertinent international bodies,
Taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child,
Have agreed as follows:

Article 1

States Parties shall prohibit the sale of children, child prostitution and child pornography as provided for by the present Protocol.

Article 2

For the purposes of the present Protocol:

- (a) Sale of children means any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration;
- (b) Child prostitution means the use of a child in sexual activities for remuneration or any other form of consideration;
- (c) Child pornography means any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes.

Article 3

1. Each State Party shall ensure that, as a minimum, the following acts and activities are fully covered under its criminal or penal law, whether such offences are committed domestically or transnationally or on an individual or organized basis:

(a) In the context of sale of children as defined in article 2:

(i) Offering, delivering or accepting, by whatever means, a child for the purpose of:

- a. Sexual exploitation of the child;
- b. Transfer of organs of the child for profit;
- c. Engagement of the child in forced labour;

(ii) Improperly inducing consent, as an intermediary, for the adoption of a child in violation of applicable international legal instruments on adoption;

(b) Offering, obtaining, procuring or providing a child for child prostitution, as defined in article 2;

(c) Producing, distributing, disseminating, importing, exporting, offering, selling or possessing for the above purposes child pornography as defined in article 2.

2. Subject to the provisions of the national law of a State Party, the same shall apply to an attempt to commit any of the said acts and to complicity or participation in any of the said acts.

3. Each State Party shall make such offences punishable by appropriate penalties that take into account their grave nature.

4. Subject to the provisions of its national law, each State Party shall take measures, where appropriate, to establish the liability of legal persons for offences established in paragraph 1 of the present article. Subject to the legal principles of the State Party, such liability of legal persons may be criminal, civil or administrative.

5. States Parties shall take all appropriate legal and administrative measures to ensure that all persons involved in the adoption of a child act in conformity with applicable international legal instruments.

Article 4

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 3, paragraph 1, when the offences are committed in its territory or on board a ship or aircraft registered in that State.
2. Each State Party may take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 3, paragraph 1, in the following cases:
 - (a) When the alleged offender is a national of that State or a person who has his habitual residence in its territory;
 - (b) When the victim is a national of that State.
3. Each State Party shall also take such measures as may be necessary to establish its jurisdiction over the aforementioned offences when the alleged offender is present in its territory and it does not extradite him or her to another State Party on the ground that the offence has been committed by one of its nationals.
4. The present Protocol does not exclude any criminal jurisdiction exercised in accordance with internal law.

Article 5

1. The offences referred to in article 3, paragraph 1, shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties and shall be included as extraditable offences in every extradition treaty subsequently concluded between them, in accordance with the conditions set forth in such treaties.
2. If a State Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider the present Protocol to be a legal basis for extradition in respect of such offences. Extradition shall be subject to the conditions provided by the law of the requested State.
3. States Parties that do not make extradition conditional on the existence of a treaty shall recognize such offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.
4. Such offences shall be treated, for the purpose of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territories of the States required to establish their jurisdiction in accordance with article 4.
5. If an extradition request is made with respect to an offence described in article 3, paragraph 1, and the requested State Party does not or will not extradite on the basis of the nationality of the offender, that State shall take suitable measures to submit the case to its competent authorities for the purpose of prosecution.

Article 6

1. States Parties shall afford one another the greatest measure of assistance in connection with investigations or criminal or extradition proceedings brought in respect of the offences set forth in article 3, paragraph 1, including assistance in obtaining evidence at their disposal necessary for the proceedings.
2. States Parties shall carry out their obligations under paragraph 1 of the present article in conformity with any treaties or other arrangements on mutual legal assistance that may exist between them. In the absence of such treaties or arrangements, States Parties shall afford one another assistance in accordance with their domestic law.

Article 7

States Parties shall, subject to the provisions of their national law:

- (a) Take measures to provide for the seizure and confiscation, as appropriate, of:

- (i) Goods, such as materials, assets and other instrumentalities used to commit or facilitate offences under the present protocol;
- (ii) Proceeds derived from such offences;
- (b) Execute requests from another State Party for seizure or confiscation of goods or proceeds referred to in subparagraph (a) (i) and (ii);
- (c) Take measures aimed at closing, on a temporary or definitive basis, premises used to commit such offences.

Article 8

1. States Parties shall adopt appropriate measures to protect the rights and interests of child victims of the practices prohibited under the present Protocol at all stages of the criminal justice process, in particular by:
 - (a) Recognizing the vulnerability of child victims and adapting procedures to recognize their special needs, including their special needs as witnesses;
 - (b) Informing child victims of their rights, their role and the scope, timing and progress of the proceedings and of the disposition of their cases;
 - (c) Allowing the views, needs and concerns of child victims to be presented and considered in proceedings where their personal interests are affected, in a manner consistent with the procedural rules of national law;
 - (d) Providing appropriate support services to child victims throughout the legal process;
 - (e) Protecting, as appropriate, the privacy and identity of child victims and taking measures in accordance with national law to avoid the inappropriate dissemination of information that could lead to the identification of child victims;
 - (f) Providing, in appropriate cases, for the safety of child victims, as well as that of their families and witnesses on their behalf, from intimidation and retaliation;
 - (g) Avoiding unnecessary delay in the disposition of cases and the execution of orders or decrees granting compensation to child victims.
2. States Parties shall ensure that uncertainty as to the actual age of the victim shall not prevent the initiation of criminal investigations, including investigations aimed at establishing the age of the victim.
3. States Parties shall ensure that, in the treatment by the criminal justice system of children who are victims of the offences described in the present Protocol, the best interest of the child shall be a primary consideration.
4. States Parties shall take measures to ensure appropriate training, in particular legal and psychological training, for the persons who work with victims of the offences prohibited under the present Protocol.
5. States Parties shall, in appropriate cases, adopt measures in order to protect the safety and integrity of those persons and/or organizations involved in the prevention and/or protection and rehabilitation of victims of such offences.
6. Nothing in the present article shall be construed to be prejudicial to or inconsistent with the rights of the accused to a fair and impartial trial.

Article 9

1. States Parties shall adopt or strengthen, implement and disseminate laws, administrative measures, social policies and programmes to prevent the offences referred to in the present Protocol. Particular attention shall be given to protect children who are especially vulnerable to such practices.
2. States Parties shall promote awareness in the public at large, including children, through information by all appropriate means, education and training, about the preventive measures and harmful effects of the offences referred to in the present Protocol. In fulfilling their obligations under this article, States Parties shall encourage the participation of the community and, in particular, children and child victims, in such information and education and training programmes, including at the international level.
3. States Parties shall take all feasible measures with the aim of ensuring all appropriate assistance to victims of such offences, including their full social reintegration and their full physical and psychological recovery.

4. States Parties shall ensure that all child victims of the offences described in the present Protocol have access to adequate procedures to seek, without discrimination, compensation for damages from those legally responsible.

5. States Parties shall take appropriate measures aimed at effectively prohibiting the production and dissemination of material advertising the offences described in the present Protocol.

Article 10

1. States Parties shall take all necessary steps to strengthen international cooperation by multilateral, regional and bilateral arrangements for the prevention, detection, investigation, prosecution and punishment of those responsible for acts involving the sale of children, child prostitution, child pornography and child sex tourism. States Parties shall also promote international cooperation and coordination between their authorities, national and international non-governmental organizations and international organizations.

2. States Parties shall promote international cooperation to assist child victims in their physical and psychological recovery, social reintegration and repatriation.

3. States Parties shall promote the strengthening of international cooperation in order to address the root causes, such as poverty and underdevelopment, contributing to the vulnerability of children to the sale of children, child prostitution, child pornography and child sex tourism.

4. States Parties in a position to do so shall provide financial, technical or other assistance through existing multilateral, regional, bilateral or other programmes.

Article 11

Nothing in the present Protocol shall affect any provisions that are more conducive to the realization of the rights of the child and that may be contained in:

- (a) The law of a State Party;
- (b) International law in force for that State.

Article 12

1. Each State Party shall, within two years following the entry into force of the present Protocol for that State Party, submit a report to the Committee on the Rights of the Child providing comprehensive information on the measures it has taken to implement the provisions of the Protocol.

2. Following the submission of the comprehensive report, each State Party shall include in the reports they submit to the Committee on the Rights of the Child, in accordance with article 44 of the Convention, any further information with respect to the implementation of the present Protocol. Other States Parties to the Protocol shall submit a report every five years.

3. The Committee on the Rights of the Child may request from States Parties further information relevant to the implementation of the present Protocol.

Article 13

1. The present Protocol is open for signature by any State that is a party to the Convention or has signed it.

2. The present Protocol is subject to ratification and is open to accession by any State that is a party to the Convention or has signed it. Instruments of ratification or accession shall be deposited with the Secretary-General of the United Nations.

Article 14

1. The present Protocol shall enter into force three months after the deposit of the tenth instrument of ratification or accession.

2. For each State ratifying the present Protocol or acceding to it after its entry into force, the Protocol shall enter into force one month after the date of the deposit of its own instrument of ratification or accession.

Article 15

1. Any State Party may denounce the present Protocol at any time by written notification to the Secretary-General of the United Nations, who shall thereafter inform the other States Parties to the Convention and all States that have signed the Convention. The denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.

2. Such a denunciation shall not have the effect of releasing the State Party from its obligations under the present Protocol in regard to any offence that occurs prior to the date on which the denunciation becomes effective. Nor shall such a denunciation prejudice in any way the continued consideration of any matter that is already under consideration by the Committee on the Rights of the Child prior to the date on which the denunciation becomes effective.

Article 16

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly and accepted by a two-thirds majority of States Parties.

3. When an amendment enters into force, it shall be binding on those States Parties that have accepted it, other States Parties still being bound by the provisions of the present Protocol and any earlier amendments they have accepted.

Article 17

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States Parties to the Convention and all States that have signed the Convention.

**PROTOCOL TO PREVENT, SUPPRESS AND PUNISH
TRAFFICKING IN PERSONS, ESPECIALLY WOMEN AND
CHILDREN, SUPPLEMENTING THE UNITED NATIONS
CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME**

Preamble

The States Parties to this Protocol,

Declaring that effective action to prevent and combat trafficking in persons, especially women and children, requires a comprehensive international approach in the countries of origin, transit and destination that includes measures to prevent such trafficking, to punish the traffickers and to protect the victims of such trafficking, including by protecting their internationally recognized human rights,

Taking into account the fact that, despite the existence of a variety of international instruments containing rules and practical measures to combat the exploitation of persons, especially women and children, there is no universal instrument that addresses all aspects of trafficking in persons,

Concerned that, in the absence of such an instrument, persons who are vulnerable to trafficking will not be sufficiently protected,

Recalling General Assembly resolution 53/111 of 9 December 1998, in which the Assembly decided to establish an open-ended intergovernmental ad hoc committee for the purpose of elaborating a comprehensive international convention against transnational organized crime and of discussing the elaboration of, inter alia, an international instrument addressing trafficking in women and children,

Convinced that supplementing the United Nations Convention against Transnational Organized Crime with an international instrument for the prevention, suppression and punishment of trafficking in persons, especially women and children, will be useful in preventing and combating that crime,

Have agreed as follows:

I. General provisions

Article 1

*Relation with the United Nations Convention
against Transnational Organized Crime*

1. This Protocol supplements the United Nations Convention against Transnational Organized Crime. It shall be interpreted together with the Convention.

2. The provisions of the Convention shall apply, *mutatis mutandis*, to this Protocol unless otherwise provided herein.

3. The offences established in accordance with article 5 of this Protocol shall be regarded as offences established in accordance with the Convention.

Article 2

Statement of purpose

The purposes of this Protocol are:

- (a) To prevent and combat trafficking in persons, paying particular attention to women and children;
- (b) To protect and assist the victims of such trafficking, with full respect for their human rights; and
- (c) To promote cooperation among States Parties in order to meet those objectives.

Article 3

Use of terms

For the purposes of this Protocol:

(a) "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

(c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article;

(d) "Child" shall mean any person under eighteen years of age.

Article 4
Scope of application

This Protocol shall apply, except as otherwise stated herein, to the prevention, investigation and prosecution of the offences established in accordance with article 5 of this Protocol, where those offences are transnational in nature and involve an organized criminal group, as well as to the protection of victims of such offences.

Article 5
Criminalization

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the conduct set forth in article 3 of this Protocol, when committed intentionally.

2. Each State Party shall also adopt such legislative and other measures as may be necessary to establish as criminal offences:

(a) Subject to the basic concepts of its legal system, attempting to commit an offence established in accordance with paragraph 1 of this article;

(b) Participating as an accomplice in an offence established in accordance with paragraph 1 of this article; and

(c) Organizing or directing other persons to commit an offence established in accordance with paragraph 1 of this article.

II. Protection of victims of trafficking in persons

Article 6
Assistance to and protection of victims of
trafficking in persons

1. In appropriate cases and to the extent possible under its domestic law, each State Party shall protect the privacy and identity of victims of trafficking in persons, including, inter alia, by making legal proceedings relating to such trafficking confidential.

2. Each State Party shall ensure that its domestic legal or administrative system contains measures that provide to victims of trafficking in persons, in appropriate cases:

(a) Information on relevant court and administrative proceedings;

(b) Assistance to enable their views and concerns to be presented and considered at appropriate stages of criminal proceedings against offenders, in a manner not prejudicial to the rights of the defence.

3. Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of

trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of:

- (a) Appropriate housing;
- (b) Counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand;
- (c) Medical, psychological and material assistance; and
- (d) Employment, educational and training opportunities.

4. Each State Party shall take into account, in applying the provisions of this article, the age, gender and special needs of victims of trafficking in persons, in particular the special needs of children, including appropriate housing, education and care.

5. Each State Party shall endeavour to provide for the physical safety of victims of trafficking in persons while they are within its territory.

6. Each State Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered.

Article 7

Status of victims of trafficking in persons in receiving States

1. In addition to taking measures pursuant to article 6 of this Protocol, each State Party shall consider adopting legislative or other appropriate measures that permit victims of trafficking in persons to remain in its territory, temporarily or permanently, in appropriate cases.

2. In implementing the provision contained in paragraph 1 of this article, each State Party shall give appropriate consideration to humanitarian and compassionate factors.

Article 8

Repatriation of victims of trafficking in persons

1. The State Party of which a victim of trafficking in persons is a national or in which the person had the right of permanent residence at the time of entry into the territory of the receiving State Party shall facilitate and accept, with due regard for the safety of that person, the return of that person without undue or unreasonable delay.

2. When a State Party returns a victim of trafficking in persons to a State Party of which that person is a national or in which he or she had, at the time of entry into the territory of the receiving State Party, the right of permanent residence, such return shall be with due regard for the safety of

that person and for the status of any legal proceedings related to the fact that the person is a victim of trafficking and shall preferably be voluntary.

3. At the request of a receiving State Party, a requested State Party shall, without undue or unreasonable delay, verify whether a person who is a victim of trafficking in persons is its national or had the right of permanent residence in its territory at the time of entry into the territory of the receiving State Party.

4. In order to facilitate the return of a victim of trafficking in persons who is without proper documentation, the State Party of which that person is a national or in which he or she had the right of permanent residence at the time of entry into the territory of the receiving State Party shall agree to issue, at the request of the receiving State Party, such travel documents or other authorization as may be necessary to enable the person to travel to and re-enter its territory.

5. This article shall be without prejudice to any right afforded to victims of trafficking in persons by any domestic law of the receiving State Party.

6. This article shall be without prejudice to any applicable bilateral or multilateral agreement or arrangement that governs, in whole or in part, the return of victims of trafficking in persons.

III. Prevention, cooperation and other measures

Article 9

Prevention of trafficking in persons

1. States Parties shall establish comprehensive policies, programmes and other measures:

- (a) To prevent and combat trafficking in persons; and
- (b) To protect victims of trafficking in persons, especially women and children, from revictimization.

2. States Parties shall endeavour to undertake measures such as research, information and mass media campaigns and social and economic initiatives to prevent and combat trafficking in persons.

3. Policies, programmes and other measures established in accordance with this article shall, as appropriate, include cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.

4. States Parties shall take or strengthen measures, including through bilateral or multilateral cooperation, to alleviate the factors that make persons, especially women and children, vulnerable to trafficking, such as poverty, underdevelopment and lack of equal opportunity.

5. States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.

Article 10

Information exchange and training

1. Law enforcement, immigration or other relevant authorities of States Parties shall, as appropriate, cooperate with one another by exchanging information, in accordance with their domestic law, to enable them to determine:

(a) Whether individuals crossing or attempting to cross an international border with travel documents belonging to other persons or without travel documents are perpetrators or victims of trafficking in persons;

(b) The types of travel document that individuals have used or attempted to use to cross an international border for the purpose of trafficking in persons; and

(c) The means and methods used by organized criminal groups for the purpose of trafficking in persons, including the recruitment and transportation of victims, routes and links between and among individuals and groups engaged in such trafficking, and possible measures for detecting them.

2. States Parties shall provide or strengthen training for law enforcement, immigration and other relevant officials in the prevention of trafficking in persons. The training should focus on methods used in preventing such trafficking, prosecuting the traffickers and protecting the rights of the victims, including protecting the victims from the traffickers. The training should also take into account the need to consider human rights and child- and gender-sensitive issues and it should encourage cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.

3. A State Party that receives information shall comply with any request by the State Party that transmitted the information that places restrictions on its use.

Article 11

Border measures

1. Without prejudice to international commitments in relation to the free movement of people, States Parties shall strengthen, to the extent

to have been issued in its name and suspected of being used for trafficking in persons.

IV. Final provisions

Article 14

Saving clause

1. Nothing in this Protocol shall affect the rights, obligations and responsibilities of States and individuals under international law, including international humanitarian law and international human rights law and, in particular, where applicable, the 1951 Convention and the 1967 Protocol relating to the Status of Refugees and the principle of non-refoulement as contained therein.

2. The measures set forth in this Protocol shall be interpreted and applied in a way that is not discriminatory to persons on the ground that they are victims of trafficking in persons. The interpretation and application of those measures shall be consistent with internationally recognized principles of non-discrimination.

Article 15

Settlement of disputes

1. States Parties shall endeavour to settle disputes concerning the interpretation or application of this Protocol through negotiation.

2. Any dispute between two or more States Parties concerning the interpretation or application of this Protocol that cannot be settled through negotiation within a reasonable time shall, at the request of one of those States Parties, be submitted to arbitration. If, six months after the date of the request for arbitration, those States Parties are unable to agree on the organization of the arbitration, any one of those States Parties may refer the dispute to the International Court of Justice by request in accordance with the Statute of the Court.

3. Each State Party may, at the time of signature, ratification, acceptance or approval of or accession to this Protocol, declare that it does not consider itself bound by paragraph 2 of this article. The other States Parties shall not be bound by paragraph 2 of this article with respect to any State Party that has made such a reservation.

4. Any State Party that has made a reservation in accordance with paragraph 3 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 16

Signature, ratification, acceptance, approval and accession

1. This Protocol shall be open to all States for signature from 12 to 15 December 2000 in Palermo, Italy, and thereafter at United Nations Headquarters in New York until 12 December 2002.

2. This Protocol shall also be open for signature by regional economic integration organizations provided that at least one member State of such organization has signed this Protocol in accordance with paragraph 1 of this article.

3. This Protocol is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations. A regional economic integration organization may deposit its instrument of ratification, acceptance or approval if at least one of its member States has done likewise. In that instrument of ratification, acceptance or approval, such organization shall declare the extent of its competence with respect to the matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

4. This Protocol is open for accession by any State or any regional economic integration organization of which at least one member State is a Party to this Protocol. Instruments of accession shall be deposited with the Secretary-General of the United Nations. At the time of its accession, a regional economic integration organization shall declare the extent of its competence with respect to matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

Article 17

Entry into force

1. This Protocol shall enter into force on the ninetieth day after the date of deposit of the fortieth instrument of ratification, acceptance, approval or accession, except that it shall not enter into force before the entry into force of the Convention. For the purpose of this paragraph, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization.

2. For each State or regional economic integration organization ratifying, accepting, approving or acceding to this Protocol after the deposit of the fortieth instrument of such action, this Protocol shall enter into force on the thirtieth day after the date of deposit by such State or organization of

the relevant instrument or on the date this Protocol enters into force pursuant to paragraph 1 of this article, whichever is the later.

Article 18 *Amendment*

1. After the expiry of five years from the entry into force of this Protocol, a State Party to the Protocol may propose an amendment and file it with the Secretary-General of the United Nations, who shall thereupon communicate the proposed amendment to the States Parties and to the Conference of the Parties to the Convention for the purpose of considering and deciding on the proposal. The States Parties to this Protocol meeting at the Conference of the Parties shall make every effort to achieve consensus on each amendment. If all efforts at consensus have been exhausted and no agreement has been reached, the amendment shall, as a last resort, require for its adoption a two-thirds majority vote of the States Parties to this Protocol present and voting at the meeting of the Conference of the Parties.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote under this article with a number of votes equal to the number of their member States that are Parties to this Protocol. Such organizations shall not exercise their right to vote if their member States exercise theirs and vice versa.

3. An amendment adopted in accordance with paragraph 1 of this article is subject to ratification, acceptance or approval by States Parties.

4. An amendment adopted in accordance with paragraph 1 of this article shall enter into force in respect of a State Party ninety days after the date of the deposit with the Secretary-General of the United Nations of an instrument of ratification, acceptance or approval of such amendment.

5. When an amendment enters into force, it shall be binding on those States Parties which have expressed their consent to be bound by it. Other States Parties shall still be bound by the provisions of this Protocol and any earlier amendments that they have ratified, accepted or approved.

Article 19 *Denunciation*

1. A State Party may denounce this Protocol by written notification to the Secretary-General of the United Nations. Such denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.

2. A regional economic integration organization shall cease to be a Party to this Protocol when all of its member States have denounced it.

Article 20

Depositary and languages

1. The Secretary-General of the United Nations is designated depositary of this Protocol.

2. The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF, the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Protocol.

C182 Worst Forms of Child Labour Convention, 1999

Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

Convention:C182

Place: Geneva

Session of the Conference:87

Date of adoption:17:06:1999

The General Conference of the International Labour Organization

- Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 87th Session on 1 June 1999.
- Considering the need to adopt new instruments for the prohibition and elimination of the worst forms of child labour, as the main priority for national and international action, including international cooperation and assistance, to complement the Convention and the Recommendation concerning Minimum Age for Admission to Employment, 1973, which remain fundamental instruments on child labour.
- Considering that the effective elimination of the worst forms of child labour requires immediate and comprehensive action, taking into account the importance of free basic education and the need to remove the children concerned from all such work and to provide for their rehabilitation and social integration while addressing the needs of their families.
- Recalling the resolution concerning the elimination of child labour adopted by the International Labour Conference at its 83rd Session in 1996.
- Recognizing that child labour is to a great extent caused by poverty and that the long-term solution lies in sustained economic growth leading to social progress, in particular poverty alleviation and universal education.
- Recalling the Convention on the Rights of the Child adopted by the United Nations General Assembly on 20 November 1989.
- Recalling the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, adopted by the International Labour Conference at its 86th Session in 1998.
- Recalling that some of the worst forms of child labour are covered by other international instruments, in particular the Forced Labour Convention, 1930, and

the United Nations Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 1956.

- Having decided upon the adoption of certain proposals with regard to child labour, which is the fourth item on the agenda of the session.
- Having determined that these proposals shall take the form of an international Convention.

adopts this seventeenth day of June of the year one thousand nine hundred and ninety-nine the following Convention, which may be cited as the Worst Forms of Child Labour Convention.

Article 1

Each Member which ratifies this Convention shall take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency.

Article 2

For the purposes of this Convention, the term *child* shall apply to all persons under the age of 18.

Article 3

For the purposes of this Convention, the term *the worst forms of child labour* comprises:

- a. all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
- b. the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- c. the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;
- d. work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

Article 4

1. The types of work referred to under Article 3(d) shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of employers and workers concerned, taking into consideration relevant international standards, in particular Paragraphs 3 and 4 of the Worst Forms of Child Labour Recommendation, 1999.
2. The competent authority, after consultation with the organizations of employers and workers concerned, shall identify where the types of work so determined exist.

3. The list of the types of work determined under paragraph 1 of this Article shall be periodically examined and revised as necessary, in consultation with the organizations of employers and workers concerned.

Article 6

Each Member shall, after consultation with employers' and workers' organizations, establish or designate appropriate mechanisms to monitor the implementation of the provisions giving effect to this Convention.

Article 6

1. Each Member shall design and implement programmes of action to eliminate as a priority the worst forms of child labour.
2. Such programmes of action shall be designed and implemented in consultation with relevant government institutions and employers' and workers' organizations, taking into consideration the views of other concerned groups as appropriate.

Article 7

1. Each Member shall take all necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to this Convention including the provision and application of penal sanctions or, as appropriate, other sanctions.
2. Each Member shall, taking into account the importance of education in eliminating child labour, take effective and time-bound measures to:
 - a. prevent the engagement of children in the worst forms of child labour;
 - b. provide the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration;
 - c. ensure access to free basic education, and, wherever possible and appropriate, vocational training, for all children removed from the worst forms of child labour;
 - d. identify and reach out to children at special risk; and
 - e. take account of the special situation of girls.
3. Each Member shall designate the competent authority responsible for the implementation of the provisions giving effect to this Convention.

Article 8

Members shall take appropriate steps to assist one another in giving effect to the provisions of this Convention through enhanced international cooperation and/or assistance including support for social and economic development, poverty eradication programmes and universal education.

Article 9

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 10

1. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General of the International Labour Office.
2. It shall come into force 12 months after the date on which the ratifications of two Members have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any Member 12 months after the date on which its ratification has been registered.

Article 11

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.
2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 12

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications and acts of denunciation communicated by the Members of the Organization.
2. When notifying the Members of the Organization of the registration of the second ratification, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Convention shall come into force.

Article 13

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations, for registration in accordance with article 102 of the Charter of the United Nations, full particulars of all ratifications and acts of denunciation registered by the Director-General in accordance with the provisions of the preceding Articles.

Article 15

At such times as it may consider necessary, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 16

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides –
 - a. the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 11 above, if and when the new revising Convention shall have come into force;
 - b. as from the date when the new revising Convention comes into force, this Convention shall cease to be open to ratification by the Members.
2. This Convention shall in any case remain in force in its actual form and content for those Members, which have ratified it but have not ratified the revising Convention.

Article 16

The English and French versions of the text of this Convention are equally authoritative.

Draft SAARC Convention on
Preventing and Combating
Trafficking in Women and
Children for Prostitution

DRAFT

SAARC CONVENTION ON PREVENTING AND COMBATING TRAFFICKING IN WOMEN AND CHILDREN FOR PROSTITUTION

The Member States of the South Asian Association for Regional Cooperation (SAARC), Parties to the present Convention,

Emphasising that the evil of trafficking in women and children [for the purpose of prostitution] is incompatible with the dignity and honour of human beings and is a violation of basic human rights,

Recalling the decision of the Ninth SAARC Summit (May, 1997) that the feasibility of a Regional Convention to combat the grave crime of trafficking in women and children for prostitution should be explored,

Recalling also the relevant international legal instruments relating to prevention of trafficking in women and children, including the Convention for the Suppression of Trafficking in Persons and of the Exploitation of Prostitution of Others; Convention on the Elimination of all Forms of Discrimination against Women, International Covenant on Civil and Political Rights and the Convention on the Rights of the Child,

Giving due regard to the implementation of the recommendations of the various pertinent International Bodies and Conferences including the Fourth World Conference on Women at Beijing(1995)

Noting with concern the increasing exploitation by traffickers of women and children from SAARC countries and their increasing use of these countries as sending, receiving and transit points,

Recognising in this regard the importance of establishing effective regional cooperation for preventing trafficking and for investigation, detection, prosecution and punishment of those responsible for trafficking,

Emphasizing the need to strengthen cooperation in providing assistance, rehabilitation and repatriation to victims of trafficking,

Have agreed as follows:

ARTICLE-1

DEFINITIONS

For the purpose of this Convention :

- 1) "Child" means a person who has not attained the age of 18 years;
- 2) "Prostitution" means the sexual exploitation or abuse of persons for commercial purposes;
- 3) "Trafficking" means the moving, selling or buying of women and children (for prostitution) within and outside a country for monetary or other considerations, with or without the consent of the person subjected to trafficking,
- 4) "Traffickers" means persons, agencies or institutions engaged in any form of trafficking;

5) "Persons subjected to trafficking" means women and children victimised [or forced into prostitution] by the traffickers by deception, threat, coercion, kidnapping, sale, fraudulent marriage child marriage, or any other unlawful means;

6) "Protective home" means a home established or recognised by a Government of a Member State for the reception, care, treatment and rehabilitation of rescued or arrested persons subjected to trafficking.

ARTICLE - II

SCOPE OF THE CONVENTION

The purpose of this Convention is to promote cooperation amongst Member States so that they may effectively deal with the various aspects of prevention and suppression of trafficking in women and children; the repatriation and rehabilitation of victims of trafficking and prevent the use of women and children in international prostitution networks, particularly where the countries of the SAARC region are the countries of origin, transit and destination.

ARTICLE - III

OFFENCES

The State Parties to the Convention shall take effective measures to ensure that trafficking in any form is an offence under their respective criminal law and shall make such an offence

punishable by appropriate penalties which take into account its grave nature.

2. The State Parties to the Convention, in their respective territories, shall provide for punishment of any person who keeps, maintains or manages or knowingly finances or takes part in the financing of a place used for the purpose of trafficking and knowingly lets or rents a building or other place or any part thereof for the purpose of trafficking.

3. Any attempt or abetment to commit any crime mentioned in paragraphs 1 and 2 above or their financing shall also be punishable.

ARTICLE - IV

AGGRAVATING CIRCUMSTANCES

1. The State Parties to the Convention shall ensure that their courts having jurisdiction over the offences committed under this Convention, can take into account factual circumstances which make the commission of such offences particularly grave, viz.

- a) the involvement in the offences of an organised criminal group to which the offender belongs;
- b) the involvement of the offender in other international organised criminal activities;
- c) the use of violence or arms by the offender.

- d) the fact that the offender holds a public office and that the offence is connected with that office;
- e) the victimisation or trafficking of children;
- f) the fact that the offence is committed in a custodial institution or in an educational institution or social facility or in their immediate vicinity or in other places to which children and students visit for educational, sports, social and cultural activities;
- g) previous conviction, particularly for similar offences, whether in a Member State or any other country.

ARTICLE V

JUDICIAL PROCEEDINGS

1. In trying offences under this Convention, judicial authorities in Member States shall ensure that the confidentiality of the child and women victims is maintained and that they are provided appropriate counselling and legal assistance.

ARTICLE - VI

MUTUAL LEGAL ASSISTANCE

1. The State Parties to the Convention shall grant to each other the widest measure of mutual legal assistance in respect of

investigations, inquiries, trials or other proceedings in the requesting State in respect of offences under this Convention. Such assistance shall include:

- a) taking of evidence and obtaining of statements of persons;
- b) provision of information, documents and other records including criminal and judicial records;
- c) location of persons and objects including their identification;
- d) search and seizures;
- e) delivery of property including lending of exhibits;
- f) making detained persons and others available to give evidence or assist investigations;
- g) service of documents including documents seeking attendance of persons; and
- h) any other assistance consistent with the objectives of this Convention.

2. Requests for assistance shall be executed promptly in accordance with their national laws and in the manner requested by

able to comply in whole or in part with a request for assistance or decides to postpone execution it shall promptly inform the Requesting State and shall give reasons for the same.

ARTICLE - VI

EXTRADITION OR PROSECUTION

1. The offences referred to in the present Convention shall be regarded as extraditable offences in any extradition treaty which has been or may hereinafter be concluded, between any of the Parties to the Convention.
2. If a State Party which makes extradition conditional on the existence of a treaty, receives a request for extradition from another State Party with which it has no extradition treaty, the Requested State shall consider this Convention as the basis for extradition in respect of the offences set forth in Article III.
3. Extradition shall be granted in accordance with the laws of the State to which the request is made.
4. The State Party in whose territory the alleged offender is present shall, if it does not extradite him or her, submit, without exception whatsoever and without undue delay, the case to its competent authorities for the purpose of prosecution in accordance with the laws of that State.
5. In States where extradition of their nationals is not permitted under their law, nationals who have committed offences under the

present Convention shall be prosecuted and punished by their courts.

ARTICLE - VIII

MEASURES TO PREVENT TRAFFICKING IN WOMEN AND CHILDREN

1. The State Parties to the Convention shall provide sufficient means, training and assistance to their respective authorities to enable them to effectively conduct inquiries, investigations and prosecution of offences under this Convention.
2. The State Parties to the Convention shall sensitize their law enforcement agencies and the judiciary in respect of the offences under this Convention and other related factors that encourage trafficking in Women and Children.
3. The State Parties to the Convention shall establish a Regional Task Force consisting of officials of the Member States to facilitate implementation of all provisions of this Convention and to undertake periodic reviews.
4. The State Parties to the Convention may also, by mutual agreement, set up bilateral mechanisms to effectively implement the provisions of the Convention.
5. The State Parties to the Convention shall exchange, on a regular basis, information in respect of agencies, institutions and individuals who are involved in trafficking in the region and also identify methods and routes used by the traffickers through land.

water or air. The information so furnished shall include information of the offenders, their fingerprints, photographs, methods of operation, police records and records of conviction.

6. [The State Parties to the Convention shall, if they have not already done so, take necessary measures for the supervision of employment agencies in order to prevent trafficking in women and children under the guise of recruitment.

7. The State Parties to the Convention shall endeavour to focus preventive and development efforts on areas which are known to be source areas for trafficking.

8. The State Parties to the Convention shall promote awareness, inter-alia, through the use of the media, of the problem of trafficking, in Women and Children and its underlying causes including the projection of negative images of women.

ARTICLE IX

CARE, TREATMENT, REHABILITATION AND REPATRIATION OF THE VICTIMS

1. The rehabilitation of the victims of trafficking shall be the responsibility of the country of their origin. The State Parties to the Convention shall work out modalities for repatriation of the victims to the country of origin.

2. Pending the completion of arrangements for the repatriation of victims of cross-border trafficking, the State Parties to the Convention shall make suitable provisions for their care and

maintenance. The provision of legal advice and health care facilities shall also be made available to such victims.

3. The State Parties to the Convention shall establish protective homes or shelters for rehabilitation of victims of trafficking. Suitable provisions shall also be made for granting legal advice, counselling, job training and health care facilities for the victims.

4. The State Parties to the Convention may also authorise the recognised non-governmental organisations to establish such protective homes or shelters for providing suitable care and maintenance for the victims of trafficking.

5. The State Parties to the Convention shall encourage recognised non-governmental organisations in efforts aimed at prevention, intervention and rehabilitation, including through the establishment of such protective homes or shelters for providing suitable care and maintenance for the victims of trafficking.

ARTICLE X

IMPLEMENTATION

The State Parties to the Convention shall adopt in accordance with their respective Constitutions, the legislative and other measures necessary to ensure the implementation of the Convention

ARTICLE XI

HIGHER MEASURES

The measures provided for in the Convention are without prejudice to higher measures of enforcement and protection, accorded by relevant national laws and international agreements.

ARTICLE - XII

SIGNATURE AND RATIFICATION

The Convention shall be open for signature by the Member States of SAARC at the ----- SAARC Summit at ----- and thereafter at the SAARC Secretariat at Kathmandu. It shall be subject to ratification. The instruments of Ratification shall be deposited with the Secretary General.

ARTICLE - XIII

ENTRY INTO FORCE

This Convention shall enter into force on the ----- day following the day of the deposit of the seventh Instrument of Ratification with the Secretary General.

ARTICLE - XIV

DEPOSITORY

The Secretary-General shall be the depository of this Convention and shall notify the Member States of signatures to this Convention and all deposits of Instruments of Ratification. The Secretary-General shall transmit certified copies of such instruments

to each Member-State. The Secretary-General shall also inform Member States of the date on which this Convention will have entered into force in accordance with Article XII

IN Witness Whereof the undersigned being duly authorised thereto by their respective Governments, have signed this Convention

DONE AT ----- on this ----- day of ----- One Thousand Nine Hundred and Ninety Eight, in eight originals in the English Language, all texts being equally authentic.

People's Republic of Bangladesh

Kingdom of Bhutan

Republic of India

Republic of Maldives

His Majesty's Government of Nepal

Islamic Republic of Pakistan

Democratic Socialist Republic of Sri Lanka

Annex 2

List of persons/organisations met/visited



1. Ain O Salish Kendra (ASK): Discussion with Khursheed Erfan Ahmed, Director, Child Rights and Training Unit; Saidur Rahman, Deputy Director, Training; Md. Moqsud Maleque, Coordinator, Child Rights Unit; Shilpi Choudhury, Researcher, Research Unit; Dilruba Haque Papia, Advocate, Legal Aid Unit, and; Selina Akhter, Advocate, 8 October 2001, Dhaka.
2. Aparajeyo Bangladesh: Discussion with Eric Thipthorpe, Information and Publication Officer, and Jahan Ara, Manager, Girls' Hostel and visit to Adolescent Girls' Hostel, 14 June 2001, Dhaka.
3. ARISE Project: Met with Valerie Jaques, International Expert in Child Counselling, and Amina Chowdhury, Gender Specialist, 12 June 2001, Department of Social Services, Dhaka.
4. ATSEC: Discussion with Mizanur Rahman, Project Director, 8 October 2001, Dhaka.
5. Bandhu Social Welfare Society: Discussion with Shale Ahmed, Executive Director and Anisul Islam Hero, Chairperson, 17 June 2001, Dhaka.
6. Bangladesh National Women Lawyers Association (BNWLA): visit to Shelter Home, Agargaon and discussion with Shirin Naher, Communication Officer, Muminun Nessa Shikha, Counsellor, and Badrunnessa Ahmed, Superintendent, 13 June 2001, and on other occasions, Salma Ali, Executive Director, Dhaka.
7. Bangladesh Shishu Adhikar Forum (BSAF): Discussion with Muhammad Asgar Ali, Director, 7 October 2001, Dhaka.
8. Bangladesh Society for Enforcement of Human Rights: Discussion with Advocate Sigma Huda, 3 October 2001, Dhaka.
9. Thérèse Blanchet, Anthropologist, Discussion on 12 and 24 September 2001, Dhaka.
10. Breaking the Silence: Discussion with Afsan Chowdhury, member Breaking the Silence on 7 June 2001, Dhaka.
11. Breaking the Silence: Discussion with Roxana Sultana, Sadeka Islam, social counsellor and Md Abul Khaer on 14 June 2001, Dhaka.
12. British Council: Discussion with Farah Kabir, Assistant Director for Gender and Governance, 3 October 2001, Dhaka.
13. CARE Bangladesh: Discussion with Dr Janna, HIV Programme Coordinator, 20 June 2001, Dhaka.
14. Centre for Women and Children Studies: Discussion with Professor Ishrat Shamim, 3 October 2001, Dhaka.
15. Child Development Centre, Shishu Hospital: Discussion with Monwara Parveen, Child Psychologist, 24 June 2001, Dhaka.
16. Concern Bangladesh: Met with Hossain Shahid Sumon, Team Leader, Advocacy, Socially Disadvantaged People's Programme (SDPP), and visit to Vagrants' Homes in Manikganj and Narayanganj, 18 June 2001.
17. Family Health International: Discussion with Pam Baatsen, Country Director, and Habibur Rahman, Programme Coordinator, 2 October 2001, Dhaka.

18. ILO-IPEC: Correspondence and Discussion with Tine Staermose, Chief Technical Adviser, TICSAs, ILO-IPEC, August 2001 and 8 November 2001, Dhaka.
19. International Organisation for Migration (IOM): Discussion with Ruben Korevaar, Programme Officer and Rina Sen Gupta, Project Officer, 17 June 2001, Dhaka.
20. INCIDIN Bangladesh: visit to Misplaced Childhood Drop-in Centre and Discussion with Mustaque Ali, Executive Director, 17 May 2001, Dhaka.
21. Institutional Development of Human Rights in Bangladesh (IDHRB) Ministry of Law, Justice and Parliamentary Affairs: Discussion with K.M. Haque (Kaiser), Project Director, and; Shaila Parveen Luna, Research Fellow, 4 September 2001, Dhaka.
22. Rachel Kabir, Researcher, Development and Child Rights Issues, Discussion on 23 September 2001.
23. Mapping Exercise on HIV/AIDS Law Ethics and Human Rights Project, Ministry of Law, Justice and Parliamentary Affairs: Discussion with Tahniah Shahid, Research Associate, 4 September 2001, Dhaka.
24. Ministry of Home Affairs, Mr Ashiqul Huq Chowdhury, Joint Secretary, Administration, 27 June 2001, Dhaka.
25. Ministry of Social Welfare: Discussion with Mr Dewan Zakir Hussain, Deputy Secretary, National Project Director, ARISE Project, Department of Social Services, 5 September 2001, Dhaka.
26. Ministry of Women and Children Affairs, Mr Abdur Rab, Deputy Secretary and Mr Shamsul Arefin, Senior Assistant Secretary, 25 June 2001, Dhaka.
27. Medecins Sans Frontieres (MSF)-Holland: Discussion with Caroline Taylor, Country Manager, 19 June 2001, Dhaka.
28. Nari Maitree: Discussion with Shaheen Akter Dolly, Executive Director and visit to UNDP and UNICEF-supported programmes at Kamalpur Railway Station, 13 June 2001, Dhaka.
29. Resource Bangladesh: Discussion with Resource Bangladesh's Children's Congress members, Child Leaders, Child Facilitators, and Editorial Team. Met with Sufia Khatun, Trainer; Kamrul Islam Chowdhury, Executive, Joyabrata Das Gupta, Coordinator and Mizanur Rahman, 25 June 2001, North Adabor, Shamoly, Dhaka.
30. Royal Norwegian Embassy: Discussion with Zakia Hassan, Advisor, Development Affairs; Tom Hunstad, Second Secretary, and; Ahmad S. Abbasi, Advisor (Development Affairs), 11 June 2001, Dhaka.
31. Save the Children Australia: Discussion with Sultan Mahmud, Country Director, 11 June 2001, Dhaka.
32. Sristi: Discussion with Mahbubul Alam, Executive Director, 2 October 2001, Dhaka.
33. Terre des Hommes Foundation Italy: Discussion with Alexander von Braunmuhl, Country Representative, 7 June 2001, Dhaka.
34. UNDP: Discussion with Ayaka Matsuno, Project Officer, Appropriate Resources for Improving Street Children's Environment (ARISE) and Capacity-Building, Poverty Alleviation and Sustainable Livelihood of the Socially Disadvantaged Women (DSW) and their Children projects, 12 June 2001, Dhaka.

35. UNDP Assisted Capacity Building Project: Discussion with Md. Fazlul Haque Fakir, Deputy Coordinator, 6 September 2001, Dhaka.
36. USAID: Discussion with Matthew Friedman, Technical Advisor, Population, Health and Nutrition Office, 24 September 2001, Dhaka.
37. UTSHO Bangladesh, Naripokkho and Ulka: Discussion with Mahbooba Mahmood (Leena), Project Coordinator Network Project, Naripokkho and Chief, Executive Director, UTSHO Bangladesh, and; Momtaz, President, Ulka, 24 June 2001, Dhaka.

Outside Dhaka:

38. Rajshahi: Visit to Association for Community Development (ACD) and discussion with Salima Sarwar, Executive Director and consultation with adolescent girls and women in Charghat Thana, and; adolescent girls, and boys and men in Shibganj Sadar Thana, 10 and 11 June 2001.
39. Chittagong: Discussion with Sisir Dutta, Executive Director, Bangladesh Institute of Theatre Arts (BITA) and visited Lalkhan Bazaar, Pora Colony Slum to watch performance of BITA's children theatre group, 26 May 2001.
40. Khulna and Mongla Port: Discussion with Mr. A T M Zakir Hossain, Executive Director and Ms Kaniz Fatima, Director, Planning, Jagrata Juba Shangha (JJS), Khulna and visited Baniashanta Brothel with JJS staff member on 3 June 2001. Khulna: Visited Fultala Brothel, Khulna with Debi Roy, Clinic Manager, Marie Stopes Clinic, 4 June 2001.
41. Jessore: Met with Dr K.F. Mahmud, Project Manager HIV/AIDS Prevention Project, 3 June 2001 and met with ACLAB
42. Manikganj and Narayanganj: Visit to Department of Social Services' Betila and Godnail Vagrants' Homes supported by Concern Bangladesh with Hossain Shahid Sumon, Coordinator, Advocacy, Socially Disadvantaged People's Programme, 18 June 2001.



Ministry of Women and
Children Affairs



Bangladesh